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Francisco Valdes

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LATCRIT XV SYMPOSIUM AFTERWORD— AT AND BEYOND FIFTEEN: MAPPING LATCRIT THEORY, COMMUNITY, AND PRAXIS*

Steven W. Bender** & Francisco Valdes***

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** James and Ilene Hershner Professor of Law and Director of Portland Programs, University of Oregon School of Law.

*** Professor of Law, University of Miami School of Law. This Afterword marks fifteen years of collaborative work among a diverse, fluid, and far-flung community of critical scholars. I therefore begin by thanking all the individual members of this community, whose contributions to this collective work cumulatively make this moment and text possible. In addition, I thank my co-author and friend, Steven Bender, the principal organizers of this year’s conference (Rashmi Goel, Catherine Smith, Nancy Ehrenreich, Roberto Corrada, Beto Juarez, Tom Romero, Tayyab Mahmud, Sumi Cho, Marc-Tizoc Gonzalez), and the editors of this journal for their support and assistance in the production of this Afterword and symposium. I share all errors with Steve.

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INTRODUCTION

Fifteen years ago, at a colloquium on critical race theory and Latina/o communities held in Puerto Rico, a diverse but small group of critical legal scholars banded together to launch what later came to be known as the Annual LatCrit Conference ("ALC").¹ At that time, responding to the conditions of critical outsider jurisprudence as we perceived them, we made a commitment to continuity and democracy: we agreed to hold these conferences for at least ten years, and to do so in an open, "big-tent" manner that invited organic participation and promoted coalitional theory and praxis anchored to antisubordination principles. This year, over 300 diverse scholars and activists from all regions of the country and beyond convened for the Fifteenth Annual LatCrit Conference ("LatCrit XV"), devoted to the theme that may yet come to mark these times as truly extraordinary.² The three law review symposia produced by our LatCrit XV proceedings give a good sense of where we stand at this moment.³ Having now exceeded by half our original commitment to a decade of collective, collaborative, and coalitional theory and praxis, we mark the fifteenth anniversary of this jurisprudential and activist venture by reflecting on the record of antisubordination gains accrued through our hard work, taking note of the priorities or initiatives of the moment, and recalling the shortfalls or challenges that remain with, around, and before us.

While still the keystone of the LatCrit experiment in critical outsider jurisprudence, these annual conferences have been complemented by a

¹ See generally Francisco Valdes, *Latina/o Ethnicities, Critical Race Theory and Post-Identity Politics in Postmodern Legal Culture: From Practices to Possibilities*, 9 BERKELEY LA RAZA L.J. 1 (1996).

² The theme this year was: "The Color of the Economic Crisis: Exploring the Downturn from the Bottom Up." See *Fifteenth Annual LatCrit Conference*, LATCRIT, INC., <http://web2.uconn.edu/latcrit/acxv.php> (last visited Apr. 17, 2011).

³ See generally 21 BERKELEY LA RAZA L.J. (forthcoming 2011); 14 HARV. LATINO L. REV. (forthcoming 2011); 2 U. MIAMI RACE & SOC. JUST. L. REV. (forthcoming 2011).

“portfolio” of various collective projects aimed at promoting academic activism in programmatic, enduring, and principled terms.⁴ This portfolio of projects manifests our many shared commitments in a variety of ways. They reflect our commitment to personal collective praxis, to internationalism and counter-interdisciplinarity, to outsider democracy as a key knowledge-production model, to antisubordination and multidimensional analysis and action, to coalitional method and vision, and to cross-generational pipelining designed to ensure the enduring vitality of this always-fragile experiment—a project perpetually “under construction.”⁵ Today, as we gather for the quinceañera⁶ of this shared project, we affirm and continue these commitments and practices, but now we do so not only here, in the “safe space” of the ALC but, rather, year-round in the “safe zone” that this portfolio of projects creates for the incubation of antisubordination theory, praxis, and community.⁷

The trial-and-error process of the past fifteen years has allowed us to grow, develop, organize, and along the way cultivate a still-evolving sense of jurisprudential identity, both individually and collectively. Through the fits and the falls, the zigs and the zags that we have traversed together since 1995, this LatCrit community of diverse scholar-activists has journeyed to this moment calling at once both for celebration and reflection. Latina/o cultures, like so many others, are rich in rituals marking life’s passages, including the quinceañera, which celebrates the fifteenth birthday as a special date—the equivalent of the “sweet sixteen” in Anglo-American cultures. Like the sweet sixteen, the quinceañera marks a time of both arrival and promise; a transition from the experiences of childhood to the possibilities of adulthood; a special debut that marks the proverbial first day of the rest of your life and a celebratory and reflective moment that connects past, present, and future.⁸ Like most fifteen-year olds, this LatCrit community and the projects we have constructed during these past fifteen years now stand at a crossroads beyond which lies a future yet to be imagined—until this moment.

Properly, then, the Fifteenth Annual LatCrit Conference was the occasion for a literal quinceañera—a fantastical party replete with music, dancing, cake, piñatas, and free spirits; and even more significantly, LatCrit XV was the occasion for our first formal celebration of the next generation of critical scholars devoted to the continuing cultivation of outsider democracy within legal academia: seven next-generation scholars—all “graduates” of the LatCrit Student Scholar Program—who recently have entered the profes-

⁴ See *infra* notes 35-42 and accompanying text (on the portfolio of projects).

⁵ See Francisco Valdes, *Under Construction: LatCrit Consciousness, Community, and Theory*, 85 CAL. L. REV. 1087 (1997), 10 BERKELEY LA RAZA L.J. 1 (1998) [hereinafter Valdes, *Under Construction*].

⁶ See *infra* note 8 and accompanying text (on quinceañera).

⁷ See *infra* notes 30-33 and accompanying text (on the “safe zone” concept).

⁸ See generally JULIA ALVAREZ, *Once Upon a Quinceañera: Coming of Age in the USA* (2007).

soriate, or are in the process of doing so now.⁹ These scholars, in our view, represent the emergent vanguard of a bright future for antisubordination academic activism within the legal academy of the United States, a future that we dare to imagine today and share briefly below.

In this Afterword, we begin to sketch the kind of future that we imagine.¹⁰ We start with an overview account of the first fifteen years of LatCrit theory, community, and praxis. We then turn to a handful of highlights regarding current or new programmatic initiatives that LatCrit scholars have recently launched or plan imminently to launch—a quick survey intended to connect the past with the present before turning to the future. In the concluding part of this Afterword, we lay out some of the basic parameters for the LatCritical future that we imagine and that we hope to help cultivate in the coming months and years as LatCrit matures beyond its fifteenth anniversary.

I. TAKING STOCK: LATCRIT AT FIFTEEN

Our efforts during these past fifteen years constitute and elucidate but one strand of legal studies within the larger constellation of outsider efforts in the cultivation of critical legal scholarship.¹¹ These combined efforts to articulate “critical outsider jurisprudence,” in turn, can be traced to the efforts of legal realism nearly a century ago.¹² More proximately, these combined “OutCrit” jurisprudential efforts emerge mostly from the triumphs and troubles of critical legal studies—a project snuffed out intentionally during the early 1990s by agents of imperial and neocolonial reaction both within and outside of the country’s legal academy.¹³ In each instance, these jurisprudential formations have striven mightily to reform, if not transform, business-as-usual in the nation’s legal culture—its premises, practices, and possibilities. Each has posted important and impressive gains, but none yet has completed its work.

In some key ways, LatCrit theory, praxis, and community are efforts to sustain—as well as to deepen, broaden, and thicken—the legacies of realism and criticality generally, while centering Latina/o legal studies and coali-

⁹ In the last seven years, seven alumni of the LatCrit Student Scholar Program have successfully entered law teaching, and an eighth is in process. They are: Kim Chanbonpin (John Marshall); Nicholas Espíritu (interviewing); Marc-Tizoc González (St. Thomas); SpearIt (St. Louis); César García Hernández (Capital); Stephen Lee (UC Irvine); Rose Cuisson Villazor (Hofstra); Alexia Brunet (Colorado).

¹⁰ See *infra* Part III (presenting our forward-looking bottom lines).

¹¹ For more on these concepts, see Francisco Valdes, *Theorizing ‘OutCrit’ Theories: Coalitional Method and Comparative Jurisprudential Experience—RaceCrits, QueerCrits and LatCrits*, 53 U. MIAMI L. REV. 1265 (1999).

¹² See generally Margaret E. Montoya & Francisco Valdes, “Latinas/os” and Latina/o Legal Studies: A Critical and Self-Critical Review of LatCrit Theory and Legal Models of Knowledge Production, 4 FLA. INT’L U. L. REV. 187 (2008).

¹³ See *infra* notes 108-09 and sources cited therein (on critical approaches to knowledge-production and legal scholarship).

tional theory and practice and encouraging their continual development by diverse scholars through various projects and publications. Today, this LatCrit experiment in critical outsider jurisprudence, or OutCrit legal studies, aptly is understood as a contemporary iteration of realist and critical sensibilities, but with distinctions that aim to enrich and advance the pioneering breakthroughs of our precursors and predecessors. These continuities and discontinuities span the range of substance, method, and everything in between.

A. *Critical Roots: LatCrit Theory, Praxis, and Community, 1995-2010*

The LatCrit effort to enrich and continue the development of critical outsider jurisprudence has come a long way since the LatCrit subject-position was conceived fifteen years ago at the 1995 colloquium on the enchanted island of Puerto Rico—a location replete with the multiple levels of meaning that our project aimed to engage and has come to embody since then.¹⁴ One foundational and continuing feature of our collective efforts has been a self-critical awareness designed to ensure a principled, even if messy, jurisprudential insurrection. Through our portfolio of projects, we have aimed self-consciously and self-critically to perform the principles and purposes developed substantively through our writings. Therefore, almost from the outset, LatCrit theorists worked to articulate a theory about legal theory and its activation. From this early sense of positionality, we extrapolated four functions to help us navigate the uncertainties of the choices before us. These initial values and related functions, in turn, have served as a springboard for the continuing clarification of our principles and practices between 1995 and 2010.

1. *OutCrit Democracy in Theory and Practice: Values, Functions, Guideposts, and Postulates*

At the first Annual LatCrit Planning Retreat in 2001, the participants developed a listing of the premises or purposes that brought us together. This brainstorming session asked us to distill the ideas and ideals for which we stood as a diverse, fluid, and far-flung community of activist scholars. The resulting brief but powerful manifesto, reproduced here verbatim, specified the following ten terms as “non-negotiable” values at the foundation of LatCrit theory, praxis, and community: *intergroup justice, antisubordination, anti-essentialism, multi-dimensionality, praxis/solidarity, community-*

¹⁴ See *First Annual LatCrit Colloquium*, LATCRIT, INC., <http://www.latcrit.org/> (follow “Publications” hyperlink; then “Published Symposia” hyperlink; then “Colloquium, Representing Latina/o Communities: Critical Race Theory and Practice, 9 Berkeley La Raza L.J. 1 (1996)” hyperlink) (last visited Apr. 18, 2011).

*building, critical/self-critical, ethical, transnational, and interdisciplinary.*¹⁵ Reflecting here on this listing, we are struck by the consistency between then and now. We are struck by the continuity since then of the principles and practices contemplated by this early listing of our shared concerns, outlooks, and goals; and we are struck by their palpable steering of the work that followed—the work that took these initial thoughts and translated them, in relatively short order, into a clearer sense of the functions we impute to our work, the guideposts we need to help steer our labors in principled directions, and the postulates that we now can derive from the resulting record of LatCrit endeavor. We begin, therefore, with the four functions that we ascribe to antisubordination theory, turning next to the guideposts that we have used since then to theorize and act, before trying to summarize the resulting postulates of today as we see them.

The first of these four functions is the *production of knowledge*, a threshold belief that confirms our commitment to the production not only of “scholarship” as such but, more broadly and significantly, of the critical knowledge necessary to help fuel the social relevance of theory and theory-making.¹⁶ Because the production of knowledge therefore is a means toward an end, the second function we identified to help us anchor our work is the *commitment not only to social relevance but to antisubordination punch.*¹⁷ This focus on practicality thus aims to produce a substantive social result—the advancement of material and structural transformation to ameliorate historical patterns of subjugation.

To make the commitment to social transformation through knowledge production “real” we identified as the third function of our work a commitment to the *expansion and connection of antisubordination struggles*—in other words, a commitment to multidimensional theory and praxis both within and beyond the United States. Our collective work always has been committed “to the notion that our theorizing, as a form of practical and transformative social struggle, must be referenced to other anti-subordination theories and struggles.”¹⁸ Our purpose therefore is not limited to self-decolonization, but also “toward a material transformation [of societies] that fosters social justice for all.”¹⁹

The fourth function—the *cultivation of community and coalition*—also follows, and builds on, the previous ones. This fourth and final function underscores that critical outsider jurisprudence must be “about more than knowledge, discourse, politics[,] and transformation.”²⁰ It underscores that our work importantly includes a proactive commitment to nurturing an-

¹⁵ *First Annual LatCrit Retreat*, LATCRIT, INC. 11 (May 10, 2001), <http://web2.uconn.edu/latcrit/portfolioofprojects/acadcom/annualplanningretreat/11caprmiami2001/lcaprmiami2001.pdf>.

¹⁶ See Valdes, *Under Construction*, *supra* note 5, at 1093.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 1094.

²⁰ *Id.*

tisubordination communities, both within and beyond academia and both within and beyond the borders of the United States, to help ensure the overall and bottom-line efficacy of our work.

As this synopsis makes plain, these four functions are inter-related, inter-dependent, and, ideally, mutually-reinforcing. Because they work best in tandem, we aim at all times to keep our eyes on each and to balance the perennial scarcity of time, energy, and other resources to help ensure the sharpest edge possible to everything we undertake. To help keep us always grounded as much as possible, we, in turn, have distilled a set of “guideposts” from these four functions that provide more concrete markers for our collective, ongoing work.

The meta-theorizing that led us to articulate these four functions of theory during the early years of LatCrit theorizing produced the seven following guideposts to help us discipline our shared work in self-critical ways over the long term. These guideposts, like the functions, emerge organically from the sum total of our collective efforts to articulate this subject position and its sense of purpose.²¹ Like the four functions, the seven guideposts are a reflection and projection of LatCrit theory, community, and praxis.

The first guidepost calls upon us to *recognize and accept the inevitable political nature specific to legal scholarship in this country*.²² Appreciating that we are situated in perhaps the most legalistic country on the planet, that law is used relentlessly to structure society and engineer (in)justice, and that theory is central to the construction and design of law, this first guidepost demands that antisubordination theory not be blunted by a re-colonizing fear of acknowledging and acting on this reality. This first guidepost is a foundational premise of our rebellious knowledge-production because we know that honest self-awareness of the political dimensions and ramifications of legal scholarship in this country can only sharpen our ability to employ critical theory as an engine of social justice progress.²³

Recognizing and accepting the political nature of legal scholarship in this country leads to the second guidepost: recognizing that *critical outsider scholars must become academic activists both within and beyond our institutions, professions, or local situations*.²⁴ This second guidepost establishes antisubordination praxis as a framework for the connection of theory to action and for the inter-connection of our work as teachers, scholars, and social

²¹ See generally Francisco Valdes, *Poised at the Cusp: LatCrit Theory, Outsider Jurisprudence and Latina/o Self-Empowerment*, 2 HARV. LATINO L. REV. 1 (1997) [hereinafter Valdes, *Poised at the Cusp*].

²² See *id.* at 53.

²³ On the notion of “rebellious lawyering,” see generally GERALD P. LOPEZ, *REBELLIOUS LAWYERING: ONE CHICANO’S VISION OF PROGRESSIVE LAW PRACTICE* (1992); Francisco Valdes, *Rebellious Knowledge Production, Academic Activism, & Outsider Democracy: From Principles to Practices in LatCrit Theory, 1995 to 2008*, 8 SEATTLE J. SOC. JUST. 131 (2009) [hereinafter Valdes, *Rebellious Knowledge Production*] (relating the concept to LatCritical knowledge production and praxis).

²⁴ Valdes, *Poised at the Cusp*, *supra* note 21, at 53.

actors. This guidepost emphasizes the relationship of knowledge production to social action and to social justice.

The relationships of theory to praxis, and of both to politics, incline our work toward community and coalition-building on multiple levels and across multiple borders. The third guidepost—a proactive commitment to *building intra-Latina/o communities and inter-group coalitions*—channels our work toward multidimensional axes of accommodation, collaboration, and transformation.²⁵ This third guidepost, therefore, underscores the importance of collective practices in addition to individual actions.

To engage in this messy work of diversified community- and coalition-building, we must put in place the means to engage both “sameness” and “difference” in everything we do. Our fourth guidepost therefore became a common commitment to *finding commonalities while respecting differences*.²⁶ This ongoing and self-critical effort to balance both aims in everything we do, of course, does not avert controversy, but it does provide a background normative commitment to the engagement and resolution of controversies in the substantive and genuine pursuit of the functions that we attribute to our collective work.

To do this work—to illuminate and navigate sameness/difference divides—we must engage, in programmatic and collective terms, the many social constructions deployed to prevent our alignment and preclude a day of social justice reckoning more broadly. To do this work, we must begin with the advances and accomplishments posted by previous generations of critical outsider scholars and allies. Therefore, *appreciating, incorporating, and applying the jurisprudential past to everything we undertake* became the fifth guidepost to help our work in the long run.²⁷

To ensure this grounding for the long run, we further recognized a sixth guidepost: a commitment to *continual engagement in self-critique, both individually and collectively, both in programmatic terms and otherwise*.²⁸ This commitment to self-criticality and self-correction helps to ensure that our efforts to “perform the theory” through the work we undertake collectively are ethical, principled, and substantively efficacious. This sixth guidepost makes clear that the antisubordination principles and values that we profess and promote are fully applicable to our own work and choices. This guidepost aims to ensure that our work is decolonizing, both of the self and of the larger society.

Finally, our seventh guidepost calls upon us to *recognize both specificity and diversity* in the construction of LatCrit theory, praxis, and community.²⁹ Embracing, or blending, of both diversity and specificity guides our efforts toward inclusive and democratic work and helps us guard against the inadvertent indulgence of false essentialisms within or beyond Latina/o

²⁵ *Id.* at 53-54.

²⁶ *Id.* at 54.

²⁷ *Id.* at 55-56.

²⁸ *Id.*

²⁹ *Id.* at 57.

populations. This final guidepost supplements the prior six with an explicit emphasis on the need to keep all aspects of our work “real” as well as democratic, both in substance and in structure.

For these reasons, LatCrit theorists have, in more recent years, begun to describe and define the sum total of our efforts as a collective commitment to practice critical “outsider democracy” as a form of rebellious knowledge-production and antisubordination academic activism.³⁰ This still-developing conception of LatCrit theory, community, and praxis as a form of outsider democracy dedicated multi-dimensionally to social justice recognizes and complements the previous work of legal scholars in the United States, including, most notably, the groundbreaking work of feminist legal theorists, critical race theorists, and allied scholars: we have, as the guideposts summarized above explain, endeavored to learn from and expand on the pioneering work of our predecessors.³¹ Indeed, from the very beginning we have understood and embraced the fact that LatCrit positionalities “evidence the intellectual and political debt that LatCrit theorizing owes [specifically] to Critical Race theorists.”³² Our efforts to construct a critical outsider democracy consequently require us to combine the strengths of the past, as well as to build on the gains not yet fully realized; our collective and programmatic turn towards a self-conception as an outsider democracy is structured in ways that both continue and depart from our jurisprudential inheritance.

While reflecting some of the basic norms or imperatives of any effort located within the legal academy of the United States, our democratic commitments also have led us to modify—and sometimes outright repudiate—some familiar elements of the classical or “imperial” tradition of legal scholarship. In general, democratic experiments do not aim or tend to create or control the artificial scarcities of professional recognition, intellectual legitimacy, or space in the pages of elite academic journals that are necessary specifically to an imperial stratification of legal scholars and their scholarship. Instead, the LatCrit experiment in outsider democracy endeavors to create diverse, programmatic, recurring opportunities for collaboration and exchange on multiple levels so that individual scholars can build alliances and networks as they develop their particular scholarly agendas and work, collectively, in the service of social justice transformation. In short, democratic experiments—and certainly the LatCrit one—try self-consciously to commingle newcomers and veterans as knowledge-producing, community-

³⁰ See Montoya & Valdes, *supra* note 12, at 231-47.

³¹ See *supra* notes 11-14 and accompanying text (on LatCrit attention to jurisprudential experience).

³² Valdes, *Poised at the Cusp*, *supra* note 21, at 56. It continues: “Indeed, the methodologies, stances[,] and emphases voiced by [early LatCrit] authors consistently employ the pioneering work registered during the past ten years in Critical Race legal discourse: the embrace of subjectivity, particularity, multiplicity[,] and intersectionality; the acceptance of legal scholarship’s inevitable implication of power politics; the emphasis on praxis, social justice, reconstruction[,] and transformation; the navigation of sameness and difference to build self-empowered communities; and the recognition of self-critique’s continuing importance to intellectual integrity . . .” *Id.* at 56-57.

building, coalition-fostering, and institution-sustaining actors. For this reason, we think the democratic approach that we have endeavored to develop incrementally during the past fifteen years builds a “big-tent” of programmatic initiatives that, cumulatively, take the idea of a “safe-space” to the next level: a “safe zone” that allows the myriad types of interactions that outsider democracy aims to foment.³³

Consequently, outsider democracy positively embraces difference and diversity across multiple categories, including empirical and technocratic definitions of “scholarship” as a form of important knowledge-production. Indeed, outsider democracy resists imposing any fixed or universalized “standards” that have characterized the most traditional forms of scholarly production, at least within the legal academy of the United States, in the name of “quality”—a status quo that, in fact, simply or mostly reflects and reinforces imperial projections of a false meritocracy.³⁴ As reflected in the LatCrit functions and guideposts, this linkage of democratic practices with antisubordination normativities calls for deep, continual, and proactive critical assessments of “quality” as constructed in a structurally racist, nativist, sexist, and homophobic culture. As we have recalled more than once during the past fifteen years, most of us do our work in “home” institutions created and operated as products and instruments of colonization. Moreover, and importantly, democratic theory and praxis seek to promote, in affirmative ways through programmatic initiatives, an integration of comparative and internationalist sensibilities in the production of scholarship within and outside of the United States—and to do so in consciously counter-disciplinary terms that help to break false borders and open up new lines of interaction, exchange, knowledge-production, and ultimately, collective action. LatCrit theorists, in short, employ democratic and rebellious knowledge-production, in the form of collaborative and individual praxis, as an attempt at self-decolonization as well as a project of societal transformation.

In the specific case of LatCritical democracy, our early initiatives quickly took us from our flagship annual event of the past fifteen years—the Annual LatCrit Conference—to a series of diversified efforts designed to produce synergies that otherwise might never come into being. Ranging from the Critical Global Classroom,³⁵ the International and Comparative

³³ See Montoya & Valdes, *supra* note 12, at 225.

³⁴ See, e.g., Rachel J. Anderson, *From Imperial Scholar to Imperial Student: Minimizing Bias in Article Evaluation by Law Reviews*, 20 HASTINGS WOMEN'S L.J. 197 (2009); Derrick Bell & Erin Edmonds, *Students as Teachers, Teachers as Learners*, 91 MICH. L. REV. 2025, 2026-27 (1993). For information on “imperial” scholarship, see Richard Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. PA. L. REV. 561 (1984); Richard Delgado, *The Imperial Scholar Revisited: How to Marginalize Outsider Writing, Ten Years Later*, 140 U. PA. L. REV. 1349 (1992).

³⁵ For more on this project, see LATCRIT, INC., www.latcrit.org (follow “Programs” hyperlink; then “Critical Global Classroom” hyperlink) (last visited Apr. 17, 2011) and *infra* Part II.B.1.

Law Colloquium,³⁶ and the Student Scholar Program,³⁷ to the South-North Exchange on Theory Culture and Law,³⁸ the LatCrit NGO,³⁹ and the Study Space Series,⁴⁰ this Portfolio of Projects, events, and related publications are tailored to put into motion the functions, guideposts, and aspirations that define the purposes, ethics, and priorities that bind us together.⁴¹ These activities, programs, and related publications are carefully designed (and imperfectly executed) both to develop innovative approaches to the production of emancipatory knowledge from within the legal academy of the United States, as well as to contest the entrenchment of interlocking hierarchies within the professoriate and across the hemisphere that are inconsistent with post-subordination vision.⁴²

In other words, our evolved “portfolio” ensures that our work always operates in multi-leveled and synergistic ways. First, this portfolio helps ensure that our work operates at the *local* level—within our institutions and surrounding communities. Additionally, the design of this portfolio is tailored to ensure that our work operates *nationally*, across our many differences and because of our shared values, ethics, and goals. Finally, our evolved portfolio also aims to ensure that our work operates *transnationally*, reaching out from our local and national context to help connect the dots of social justice struggles more broadly and to help us all discern the patterns formed by the particularities of globalized stratification.

This work is neither linear nor neat. On the contrary, it can be, or become, contentious and uncertain at any moment as we traverse across the fault lines of law and life that define our selves, communities, and hopes. Sometimes these eruptions flow from intra-Latina/o differences based on class, nationality, religion, immigration status, and similar identities and positionalities that can work as cleavages. Other times, these moments erupt from a broader, inter-group sense of difference based on other identity constructs, including geography, race, gender, sexuality, and the like, that also

³⁶ For more on this project, see LATCRIT, INC., www.latcrit.org (follow “Projects” hyperlink; then “Academic Community” hyperlink; then “Colloquium in International and Comparative Law” hyperlink) (last visited Apr. 17, 2011).

³⁷ For more on this project, see LATCRIT, INC., www.latcrit.org (follow “Programs” hyperlink; then “Student Scholar Program” hyperlink) (last visited Apr. 17, 2011) and *infra* Part II.B.1.

³⁸ For more on this project, see LATCRIT, INC., www.latcrit.org (follow “Projects” hyperlink; then “Academic Community” hyperlink; then “South-North Exchange” hyperlink) (last visited Apr. 17, 2011).

³⁹ For more on this project, see LATCRIT, INC. www.latcrit.org (follow “Projects” hyperlink; then “Academic Community” hyperlink; then “LatCrit NGO” hyperlink) (last visited Apr. 17, 2011).

⁴⁰ For more on this project, see LATCRIT, INC. www.latcrit.org (follow “Projects” hyperlink; then “Academic Community” hyperlink; then “Study Space” hyperlink) (last visited Apr. 17, 2011).

⁴¹ See *supra* notes 15-34 and accompanying text (on the functions, guideposts, and related concepts).

⁴² See generally Francisco Valdes, *Outsider Scholars, Legal Theory and OutCrit Perspectivity: Postsubordination Vision as Jurisprudential Method*, 49 DEPAUL L. REV. 831 (2000).

can work as cleavages.⁴³ These are the moments of tension that are also productive—moments that are double-edged precisely because they entail controversy to forge critical coalitional insight and produce antisubordination advancement in substantive and principled terms. These are the moments of “productive tension” that, though difficult, we embrace precisely because they deepen, texturize, and broaden our understanding of the world.⁴⁴

In sum, LatCrit theory, praxis, and community have become increasingly conscious of, and committed to, the proactive promotion of democratic values regarding access and participation in rebellious knowledge production and praxis. This work is messy and can be contentious, precisely because it is both concerted and experimental: it requires collaboration in the construction of innovation; but for these same reasons, this commitment to democracy yields not only productive tensions but relatively high dividends, ranging from encouraging experimentation with formats, sources, and forms of expression in legal studies, to the non-traditional dissemination of knowledge produced or presented during OutCrit academic programs and related projects. Democratic collaborations not only work consistently to foster communities of meaning through critical coalitional theory and praxis, but also work affirmatively to avoid re-inscription of any hierarchies through the work that we do. While always performed imperfectly, these are the convictions and commitments that mark the first fifteen years of LatCrit theory, praxis, and community.

Standing back now from the sum of this work to pause and reflect on where we stand in this historical moment, we conclude these background thoughts on the origins and early commitments of LatCrit theorists with four postulates derived from the collective efforts of these first fifteen years. The first postulate is simple: that *our shared goal is a post-subordination society*. The second postulate turns to execution: to get there from here, we need to generate *transformative change at both micro and macro levels* of human life and interaction. More specifically, the third postulate reaffirms a fundamental LatCrit belief: that we need principled and proactive *critical coalitions* to produce post-subordination gains at both the micro and macro levels of transformation. The fourth postulate concludes with a similar reaffirmation of established LatCrit imperatives: that only *shared substantive principles and principled practices*, explicitly stated and critically applied as summarized above, can provide a sufficiently sturdy foundation for critical coalitions capable of resisting any devolution toward mere interest-conver-

⁴³ See generally Elizabeth M. Iglesias & Francisco Valdés, *Religion, Gender, Sexuality, Race and Class in Coalitional Theory: A Critical and Self-Critical Analysis of LatCrit Social Justice Agendas*, 19 UCLA CHICANO-LATINO L. REV. 503 (1998).

⁴⁴ See generally Berta Hernández-Truyol, Angela Harris & Francisco Valdés, *Beyond the First Decade: A Forward-Looking History of LatCrit Theory, Community and Praxis*, 17 BERKELEY LA RAZA L.J. 169 (2006) [hereinafter Hernández-Truyol et al.].

gence or similar types of rickety alliance.⁴⁵ From our perspective, then, among the key principles and practices necessary to the construction of this sturdy foundation are some fundamental tenets, techniques, or conceptions of critical outsider jurisprudence developed both before and since the emergence of LatCrit in 1995.⁴⁶

2. *The LatCrit Record: Highlights and Shortfalls in “Substance” and “Method”*

From the substantive and methodological baselines formed by these and similar insights or experiences of critical outsider jurisprudence up to the mid-1990s, the LatCrit community proceeded initially to make its own intellectual and practical contributions in the ongoing elaboration of outsider scholarship from and within the legal academy of the United States. These ongoing efforts have produced both successes and disappointments. Our record is one of both highlights and shortfalls. Our commitments to the functions, guideposts, and postulates summarized earlier require us to be collectively and individually ever-mindful of these facts. Our commitment to performing the theory requires us to keep moving toward shared, elusive goals, even as we try to mend collective shortcomings and transcend sticky challenges in both the substance and the method of our joint labors.

These substantive and methodological contributions or challenges, of course, may be framed in a number of different ways and levels of description. Moreover, they overlap and interact; we refer here to “substance” and “method” as ready short-hand for more complex processes of LatCritical knowledge production and related forms of praxis. Here we offer only a few general observations about the substantive and methodological contributions of the LatCrit community to critical outsider jurisprudence more broadly during the past fifteen years, presented in abbreviated form, just for illustrative purposes. Along the way, we likewise note the substantive and methodological limitations of our work to help all interested scholars do an ever-better job in all that we attempt in the service of antisubordination transformation.

⁴⁵ See Derrick A. Bell, Jr., *Brown v. Board of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980).

⁴⁶ From our perspective, among these would be the commitment to a multidimensional antisubordination agenda that encompasses anti-racist, ant-nativist, anti-sexist, anti-homophobic, and equally, other antisubordination fronts of social justice struggle. Other similar principles and practices, again from our perspective, include the commitment to personal and collective praxis in both internationalist and cross-disciplinary ways and means performed in substantively democratic terms. See *infra* Part I.A.2.b (on these and related LatCrit approaches to method).

a. *Substantive Highlights: "Lats Plus"*

As the early and continuing conference themes and related programs of the past fifteen years illustrate,⁴⁷ one key contribution of LatCrit theory to the ongoing elaboration of critical outsider jurisprudence has been the interrogation and elucidation of Latina/o identity as a socio-legal category. Our programming deliberately drilled into concepts or topics like ethnicity, religion, language, culture, immigration, and similar socio-legal constructions to begin mapping in a conscious way actual intra-group diversities of Latina/o populations and particularly diasporas within the United States.⁴⁸ In this process, we displaced essentialized conceptions of Latina/o communities in racial, religious, and other demographic or social dimensions of identity.

However, LatCrit inquiry never limited this antisubordination interrogation of socio-legal identity to intra-Latina/o issues. On the contrary, as emphasized by the original functions and guideposts of this enterprise, our programmatic and substantive aims always have included both intra-group and inter-group knowledge-production and action.⁴⁹ As a result, our investigation of general social constructs like "race" or "culture" has helped to generate a better OutCrit appreciation for the interlocking nature of "different" systems of subordination.⁵⁰ This work, in other words, serves the purposes and functions leading to critical coalitional theory and method as antisubordination academic activism.

For similar reasons, this work has expanded beyond a critical focus on this nation-state. Instead, LatCrit theorists have persisted in promoting internationalist knowledge-production as central to OutCrit legal studies. Beginning with a determined effort to study "domestic" socio-legal categories like race or ethnicity in comparative terms, this work has supplemented our intra-Latina/o and inter-group work focused on North America.⁵¹ The result is a broadened awareness and comprehension of the patterns that help to sustain neo-colonial hierarchies across the borders of multiple nation-states even today.

At each level of this work—whether intra-Latina/o, inter-group, or internationalist—we additionally have labored during these past fifteen years to integrate scholars and scholarship from other disciplines in the ongoing elaboration of OutCrit legal studies. This fourth contribution—the push toward greater interdisciplinarity—has enriched not only the programmatic initiatives we have undertaken during the past fifteen years, but has helped to promote new networks of scholars and scholarship committed to an-

⁴⁷ See LATCRIT, INC., www.latcrit.org (follow "Conferences") (last visited Apr. 17, 2011); LATCRIT, INC., www.latcrit.org (follow "Programs" hyperlink) (last visited Apr. 17, 2011); see also Hernández-Truyol et al., *supra* note 44, at 193-94 (describing the conference themes of the first decade).

⁴⁸ See Valdes, *Rebellious Knowledge Production*, *supra* note 23, at 141-42.

⁴⁹ *Id.* at 142.

⁵⁰ *Id.*

⁵¹ *Id.* at 143.

tisubordination knowledge-production and praxis.⁵² This emphasis on interdisciplinarity, like our emphasis on internationalism, has not always been successful,⁵³ but it progressively has contributed a broadened and enriched perspective to critical outsider jurisprudence since 1995.

Finally, a fifth contribution of this work since 1995 must include our continuing efforts to link “class” and other categories of socio-legal identity in theory, policy, and law. This ongoing work has continually emphasized the dialectical relationship of material circumstances and cultural practices. This approach helps to bridge the bifurcation of critical outsider jurisprudence into “discursive” and “material” investigations of injustice under the rule of law.⁵⁴

These and similar contributions of the past fifteen years are evidenced by the thirty-some symposia produced by the programs and projects of this community since 1995.⁵⁵ More recently, as we explain more fully below, this body of scholarship has been indexed to make it more navigable and accessible for newer as well as seasoned researchers; taking a moment to review the web-based “Theme” Index together with the “Keyword” Index clearly provides a sense of scope for the scholarly contributions and related intellectual work that we only briefly summarized above. A thoughtful review of those indices illustrates how, apart from a simple application of OutCrit tools or concepts to new intellectual terrains, LatCrit scholars have reassembled and rearticulated the jurisprudential legacies we inherited. This distinctive model is organized around democratic conceptions and egalitarian practices with which we have experimented since 1995, which we briefly summarize next.

b. Methodological Highlights: “Safe Zone Plus”

As we noted at the outset, LatCrit theorists from inception have paid close attention both to knowledge production and to its principled performance, both internally and externally. We have seen the fusion of theory and action as central to antisubordination academic activism and essential to the social relevance of our work. From a LatCrit perspective, critical *and* self-critical praxis always has been, and remains, imperative.⁵⁶

This original commitment to both innovation and sustainability is seen also in our historical and contemporary practices regarding internal self-governance, including our efforts over the past fifteen years to ensure principled, democratic, transparent, and self-critical processes for making collective decisions and thereby promoting a sense of both integrity and community,

⁵² *Id.*

⁵³ See *infra* Part I.A.2.c (on LatCrit shortfalls or setbacks).

⁵⁴ See Valdes, *Rebellious Knowledge Production*, *supra* note 23, at 144.

⁵⁵ For a complete listing of these symposia see LATCRIT, INC., www.latcrit.org (follow “Publications” hyperlink; then “Published Symposia” hyperlink) (last visited Apr. 18, 2011).

⁵⁶ See *supra* notes 14-15 and accompanying text (on criticality, self-criticality, and praxis as fundamental LatCrit values).

however imperfect.⁵⁷ Thus, both with our Portfolio of Projects and with our internal self-governance practices, our basic approach to OutCrit method today remains relatively constant; but our application of our practices to ever-changing circumstances equally demonstrates our ongoing commitment to organic change and evolution in flexible yet principled and self-critical ways: since 1995 we have slowly but surely developed an array of inter-related and mutually-reinforcing practices that in tandem help to illustrate LatCritical method—our collective, still-evolving approach to ethical critical praxis. Here, we itemize only a few of the methodological highlights from the past fifteen years for illustrative purposes.

Responding to the conditions of critical outsider jurisprudence as we understood them in 1995, the earliest methodological innovations that Lat-Crit theorists undertook in programmatic terms came to be known as *rotating centers* and *streams of programming*. These practices aimed to ensure a multidimensional approach to conferences and programs, literally by “rotating the center” of collective critical interrogation; but we also aimed to ensure that this practice and process of programmatic rotation would be ongoing to promote a deep and wide process of knowledge-production. Thus, not only did we rotate the center of programmatic focus each year, but we also created follow-up streams of programming to ensure that each effort would continue beyond a single event, moment, or effort.⁵⁸ Creating over time an ongoing stream of cross-related programs, these mutually-reinforcing practices helped to ensure a steady development of critical knowledge and collective consciousness regarding substantive issues from “different” perspectives.

Because these efforts to rotate centers and stream programming sought to yield intra-group and inter-group comprehension and collaboration, we quickly adopted the notion that these efforts amounted to *critical coalitional theory* and reflected *multidimensional* analysis and action. Given our methodological emphasis on collaborative and programmatic practices over the long term, we similarly began to refer to the work that we undertake through the Portfolio of Projects as *personal collective praxis*.⁵⁹ Aware that these coalitions were a means to an end—social justice action—we conceived of our commitment to *perform the theory* as a commitment to academic activism; and because this commitment to academic activism in turn was rooted in antistatist values, we began to describe this work as *antistatist academic activism*.

More recently, and building on the concepts developed during this time in critical clinical scholarship, we began to analogize our knowledge-production methods and the stance of our work to the “rebellious lawyering” concept:

⁵⁷ See Montoya & Valdes, *supra* note 12, at 219-47.

⁵⁸ See Hernández-Trujol et al., *supra* note 44, at 194-95.

⁵⁹ *Id.*

None of [us] has thoroughly worked out the answers to all the questions [we] confront. None of [us] has entirely escaped the inconsistencies and contradictions. None is immune from frustrations and failures. What each does understand, however, is that there's no self-executing blueprint for changing law practice [or legal theory] any more than there is a magic plan for changing the world. [Our] work reflects . . . a profound appreciation that lawyering [or legal knowledge production], no less than other activist vocations, must itself reflect and occasionally even usher in the world we hope to create.⁶⁰

Thus, we began to refer to *rebellious knowledge-production* in order to underscore the very same kinds of critical and self-critical values associated with rebellious lawyering—including the commitment to perform the theory in self-critical and principled terms anchored always in the pursuit of antistatist social transformation. These practices, over time, have grown into a conception of *outsider democracy* as a key knowledge-production model for OutCrit legal studies, which we now aim to practice in collectively self-conscious ways. Over time, these practices took programmatic form as different community initiatives or collaborative projects, which incrementally became the LatCrit Portfolio of Projects. This array of projects and practices today creates the year-round *safe zone* for the incubation of critical outsider projects among diverse scholars who participate in LatCritical theory, community, and praxis.⁶¹

Our approach to method, therefore, might be described as the construction of an enduring, alternative counter-tradition to the ways and means of mainstream imperialism. This counter-tradition, focused on antistatist academic activism, is based on the critical and self-critical application of OutCrit legal studies not only to society at large, not only to academia as a whole, but also to ourselves and all that we undertake. During these first fifteen years, one of our basic methodological aims has been to create a “virtual” home for the incubation of critical communities, discourses, and actions, anchored always by the consistent collective practice of the substantive principles that we profess to share.

This undertaking cannot immediately mitigate the many evils that abound in legal culture or society at large. We cannot resolve incongruity or immunize against failure. At the same time, this kind of sustained collective effort is no small feat in a time of ferocious backlash and furious retrenchment⁶²: a determined, decades-long campaign to banish the likes of us from

⁶⁰ LOPEZ, *supra* note 23, at 382. See generally *supra* note 23 and accompanying text (on rebellious lawyering).

⁶¹ See Montoya & Valdes, *supra* note 12, at 219-47.

⁶² See, e.g., Hernández-Trujol et al., *supra* note 44, at 196-99 (providing a historical perspective on the conditions surrounding the emergence of LatCrit scholarship in the mid-1990s). For an early elaboration of this rollback campaign or “counter-revolution” from a mainstream perspective, see Kenneth L. Karst, *Religion, Sex, and Politics: Cultural Counter-revolution in Constitutional Perspective*, 24 U.C. DAVIS L. REV. 677 (1991). For similar expo-

the corridors of academia—a campaign waged with resources, wit, and determination⁶³ that threatens every day to unravel this ever-fragile experiment in OutCrit legal studies. Indeed, in these times, where criticality is under attack and social justice is under assault, the decision to identify as a “crit” and to engage in critical legal praxis as an activist, outsider scholar is an act of willful defiance against the power of dominant norms and forces. Yet, for some of us at least, intellectual honesty compels the stance.

c. Shortfalls and Challenges: Substance and Method

Despite our efforts at self-criticality and self-correction, we inevitably fall short in much that we undertake. These shortfalls result not from a lack of will or effort, but usually from a lack of resources: our efforts to perform the theory in principled ways inevitably cause us to run into fiscal, institutional, normative, and structural roadblocks that the racialized legacies of colonial conquest and neocolonial stratification have put in place. As we explain here, these roadblocks have affected our efforts to engage vigorously in various intellectual and political domains, including the coalitional interrogation of intersectional identities and the programmatic cultivation of internationalist and counter-disciplinary projects focused on South-North criticalities.

Again, as reflected in the values, functions, and guideposts with which we began this work, our programmatic sights always have been set on multiple sites of socio-legal identity and related politics. However, our efforts to foster a substantive and sustained programmatic line of inquiry on Filipina/o identities, communities, interests, or studies have not sufficiently succeeded. Our similar efforts focused on indigenous identity and scholars have fared a bit better,⁶⁴ but neither can be called fully successful. Similar observations can be made about our efforts to promote internationalist and interdisciplinary lines of inquiry: the record shows we have tried time and again to

sition from a critical outsider perspective, see Kimberlé Williams Crenshaw, *Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 HARV. L. REV. 1331 (1988). For a more recent critical overview of the backlash campaigns in and through law, see Francisco Valdes, *Culture, “Kulturkampf,” and Beyond: The Antidiscrimination Principle Under the Jurisprudence of Backlash*, in THE BLACKWELL COMPANION TO LAW AND SOCIETY 271–91 (Austin Sarat ed., 2004) [hereinafter Valdes, *Culture, “Kulturkampf,” and Beyond*]; see also *infra* notes 88–95 and accompanying text (providing additional similar sources).

⁶³ During the past decade, two ambient dangers have been among the most salient. The first has been the anti-critical bent of the legal academy, which engineered the “death” of critical legal studies and the banishment of “crits” from law faculties throughout the country in the 1990s and since. See, e.g., Richard Michael Fischl, *The Question that Killed Critical Legal Studies*, 17 LAW & SOC. INQUIRY 779 (1992) (discussing the cause(s) of “death” of Critical Legal Studies). The second was the anti-identitarian backlash of the culture wars, which insisted on formal blindness to traditionally vexed identity categories such as race, gender, ethnicity, and class in public discourse and policy-making. See generally *supra* note 62 and sources cited therein (on backlash and retrenchment).

⁶⁴ See, e.g., Ward Churchill, *The Law Stood Squarely on Its Head: U.S. Legal Doctrine, Indigenous Self-Determination and the Question of World Order*, 81 OR. L. REV. 663 (2002) (from a LatCrit VII keynote).

mount serious efforts, and yet our successes have been more limited than necessary or intended. These shortcomings ultimately point to another: even though we have helped outsider democracy to flourish among the OutCrit ranks of the legal professoriate, we have not yet been sufficiently successful in our efforts to recast the “imperial” paradigm of legal knowledge-production more generally.⁶⁵

As this summary illustrates, the LatCrit experiment in critical outsider jurisprudence is an imperfect project always under construction. However, our commitments to self-criticality and self-correction help to ensure that we acknowledge and address these kinds of shortfalls proactively, collectively, and ethically. In addition to marking areas of substantive and methodological shortcoming, these and similar setbacks, therefore, additionally mark some of the key extant challenges before us.

3. *Incubating Outsider Democracy: Neocolonialism, “Culture Wars,” and Social Context*

As with other experiments in critical outsider jurisprudence emerging from within the legal academy of the United States in recent decades, the LatCrit record that we summarize above was framed and formed in part by the broader context or zeitgeist since the 1990s, and even earlier. As with other intellectual or jurisprudential efforts, the cross-currents in the broader socio-legal environment and the political tenor of these times help to define both us and our priorities. This broader social context defines then and now the conditions for the production of LatCrit theory, praxis, and community, and also helps to situate the highlights and shortfalls of the past fifteen years in the general historical, political, or structural background of this era.

Pure and simple, these have been times of neocolonial reaction. Under the guise of “traditional values” that effectively operates as code for neocolonial stratification of society along class, race, gender, and other identitarian categories, reactionary politicians and their wealthy neocolonial sponsors have whipped up a national frenzy of hate and violence in a quasi-religious crusade to recapture the “soul” of this nation-state.⁶⁶ Having recently reached fever pitch with the reality of a black man living in the White House,⁶⁷ this phenomenon not only frames and informs everything that we do, but is very much central to our roles and responsibilities as legal scholars precisely because the chief instruments of this “cultural warfare” have been law and policy—acts of willful prejudice fueled and dictated mostly by old

⁶⁵ See Valdes, *Rebellious Knowledge Production*, *supra* note 23, at 151-52.

⁶⁶ See, e.g., Mary Romero, *Are Your Papers in Order?: Racial Profiling, Vigilantes, and “America’s Toughest Sheriff,”* 14 HARV. LATINO L. REV. (forthcoming 2011) (discussing “spectacle”-creating tactics utilized to demonize immigrants in Arizona).

⁶⁷ C.f. Berta Esperanza Hernández-Truyol, *Narratives of Identity, Nation, and Outsiders Within Outsiders: Not Yet a Post-Anything World*, 14 HARV. LATINO L. REV. (forthcoming 2011) (rejecting the idea that Obama’s election signified that the United States is a post-racial society).

hates and Big Money throughout and beyond the nation-state, as well as within the legal academy.

The fury of reaction, racism, and greed at these varying levels of operation combine to ensure that the conditions for the production of knowledge will be indifferent, if not outright hostile, to social justice theory and action. As we outline below, the unabated furies of neocolonial backlash and cultural warfare through and by law have tried mightily to suppress and erase our identities, knowledges, experiences, and aspirations, and they have managed effectively to constrain our antiracism progress. Yet, crucially, they have failed during these past fifteen years of struggle to stop our collective jurisprudential advance or paralyze our sense of dedication to the values and objectives that motivate and undergird our sense of mission.

a. Critical Theory and Social Context: Law and Backlash Within the Nation-State

The “culture wars” of the United States have been brewed and waged since the New Deal; but, they took a severe turn toward unprecedented tumult and violence since January 2010, when the United States actually inaugurated its first non-white President as the nation-state’s 44th Chief Executive. As the summary below aims to explain, both Obama-phobia and cultural warfare are best understood in proximate functional relationship to each other as expressions of the same will; and the two in tandem now help to drive the reactionism of the so-called culture wars toward ever-more-base levels, reimposing neocolonial privilege and oppression in newly “reloaded” ways calculated to threaten our communities, values, and selves like never before.

From our perspective, all OutCrit scholars bear a serious responsibility to counteract this rollback of outsider wellbeing with every means at our disposal—and with a critical eye specifically toward deploying whatever specialized skills or information our training provides as purveyors of theory, policy, and law—in a pervasively hyper-legalistic society engaged in neocolonial cultural warfare through law- and policy-making. The summary account below is provided with this responsibility in mind and to recall the impact of these ongoing events not only on the lives we lead, but also on the conditions for the production of our work. Ultimately, we hope the outline below will help sound an alarm toward timely and sharp OutCritical action on behalf of the liberating possibilities being foreclosed to humanity’s future through cultural warfare today.

In this current historical moment within the United States, this phenomenon is seen in the form of retrenchment in, and backlash against, specifically “liberal” law and policy. It is no coincidence, after all, that incumbent judicial appointees, such as Justice Antonin Scalia, have repeatedly invoked these “culture wars” in their formal opinions as the basic backdrop for their

exercises of power and discretion over law and its interpretation.⁶⁸ These culture wars, which in the context of North American politics stretch back at least to the 1970s, express majoritarian resentment and reaction against civil rights gains and legacies of the New Deal and the Great Society.⁶⁹ Picking up steam in the late 1980s and 1990s, the formal declaration of cultural war proclaimed in 1992 that the very “soul of America” was at issue.⁷⁰

Having lost their customary grip on the lawmaking powers of public sovereignties in this nation-state during the confluence of Great Depression and World War II, neocolonial elites in this country since then have been fomenting and financing a comeback campaign to neutralize the power of the state over their corporations and profits, a campaign that had become known as cultural warfare by the closing decades of the twentieth century.⁷¹ This backlashing, therefore, has not been waged or understood as a simple case of rough-and-tumble majoritarian politics as usual. On its very terms,⁷² it amounts to a multi-year, multi-faceted conflict waged expressly for the “soul” of this nation-state in the name of traditionally dominant interests.⁷³

In U.S. law and jurisprudence, this culture war backlash has been spearheaded through organizations like the Federalist Society, which was formed by now-prominent cultural warriors like Justice Scalia.⁷⁴ In U.S. policy and politics, as recent history teaches, culture war agendas have been formed and advanced by politicians like Richard Nixon, Ronald Reagan, and George W. Bush.⁷⁵ Using law, policy, and politics, backlash warriors slowly but surely have striven to restructure the nation’s perspective on its own values and history.⁷⁶ Activating identitarian wedge-issue politics to polarize “ins” and “outs,” they have endeavored to redraw the U.S. legal landscape in favor of power and privilege, spanning categories of doctrine from anti-

⁶⁸ See, e.g., *Romer v. Evans*, 517 U.S. 620, 636 (1996) (Scalia, J., dissenting); *Lawrence v. Texas*, 539 U.S. 558, 586 (2003) (Scalia, J., dissenting).

⁶⁹ See generally JAMES DAVISON HUNTER, *CULTURE WARS: THE STRUGGLE TO DEFINE AMERICA* (1992); JAMES DAVISON HUNTER, *BEFORE THE SHOOTING BEGINS: SEARCHING FOR DEMOCRACY IN AMERICA’S CULTURE WAR* (1994).

⁷⁰ See Chris Black, *Buchanan Beckons Conservatives to Come “Home,”* BOS. GLOBE, Aug. 18, 1992, at A12; Paul Galloway, *Divided We Stand: Today’s “Cultural War” Goes Deeper Than Political Slogans,* CHI. TRIB., Oct. 28, 1992, at C1.

⁷¹ For a historical account, see generally JEAN STEFANCIC & RICHARD DELGADO, *NO MERCY: HOW CONSERVATIVE THINK TANKS AND FOUNDATIONS CHANGED AMERICA’S SOCIAL AGENDA* (1996).

⁷² For now-classic expositions of this backlash, see generally ROBERT H. BORK, *THE TEMPTING OF AMERICA: THE POLITICAL SEDUCTION OF THE LAW* (1990) and RAOUL BERGER, *GOVERNMENT BY JUDICIARY* (2d ed. 1997). See also Robert H. Bork, *Neutral Principles and Some First Amendment Problems*, 47 IND. L.J. 1 (1971).

⁷³ See Francisco Valdes, *Beyond Sexual Orientation in Queer Legal Theory: Majoritarianism, Multidisciplinary, and Responsibility in Social Justice Scholarship or Legal Scholars as Cultural Warriors*, 75 DENVER U. L. REV. 1409 (1998) [hereinafter Valdes, *Beyond Sexual Orientation*].

⁷⁴ See Valdes, *Culture*, “Kulturkampf,” and *Beyond*, *supra* note 62.

⁷⁵ For an accessible and in-depth account of key figures and events, see generally RICK PERLSTEIN, *NIXONLAND: THE RISE OF A PRESIDENT AND THE FRACTURING OF AMERICA* (2009).

⁷⁶ See Francisco Valdes, *Culture by Law: Backlash as Jurisprudence*, 50 VILLANOVA L. REV. 1135 (2005).

trust to civil rights.⁷⁷ Indeed, they have aimed to restructure the very structure of power, mainly to suit themselves, their sponsors, and their allies.⁷⁸ During the twentieth century, reactionary interests waged these culture wars along three principal prongs of attack.

The first prong typically focused on the deployment of structural and economic majoritarian resources to incite bloc voting in electoral politics that systematically advantage reactionary candidates.⁷⁹ Exemplified by the "southern strategy" of Richard Nixon in 1968, this first prong deliberately stirs up fears of various minorities to generate reactionary voting patterns among mainstream, majoritarian-identified voters in support of retrenchment agendas rooted in neocolonial identitarian hierarchies.⁸⁰ As a result, for example, since 1968 white-identified voters repeatedly have used their numerical superiority not only to elect backlashing politicians, but also to enact state laws and constitutional amendments intended to strip various minorities of legal rights and protections.⁸¹ Under the culture wars, the practice of democracy has devolved into the tyranny of majoritarian abuse that the U.S. Constitution expressly was adopted to prevent.

The second prong of the culture wars focused typically on the spending power to ensure that neocolonial interests were kept fat and mighty while vulnerable communities were starved into political, economic, and social incapacity.⁸² As a result, programs ranging from aid for impoverished families to the funding of health services for marginalized groups, have been methodically decimated by the backlash politicians swept into power by bloc voting under the first prong,⁸³ even as the very same politicians use public power to re-concentrate wealth in the hands of the neocolonial elites underwriting the costs of the culture wars: even as they vote trillions of public dollars into the private pockets of their corporate patrons, these backlashing politicians bra-

⁷⁷ See Francisco Valdes, *Anomalies, Warts and All: Four Score of Liberty, Privacy and Equality*, 65 OHIO ST. L.J. 1341 (2004); Francisco Valdes, "We Are Now of the View": *Backlash Activism, Cultural Cleansing, and the Kulturkampf to Resurrect the Old Deal*, 35 SETON HALL L. REV. 1407 (2005); see also *supra* note 62 and sources cited therein (on backlash and retrenchment).

⁷⁸ For an overview focused on the judicial role in this phenomenon, see generally HERMAN SCHWARTZ, *PACKING THE COURTS: THE CONSERVATIVE CAMPAIGN TO REWRITE THE CONSTITUTION* (1988).

⁷⁹ See Valdes, *Beyond Sexual Orientation*, *supra* note 73.

⁸⁰ To review a classical exposition of this strategy, see KEVIN P. PHILLIPS, *THE EMERGING REPUBLICAN MAJORITY* (1970); see also STEVEN W. BENDER, *ONE NIGHT IN AMERICA: ROBERT KENNEDY, CÉSAR CHÁVEZ, AND THE DREAM OF DIGNITY* 161-63 (2008) (explaining the origins of Nixon's "southern strategy" and suggesting ways in which black and Latina/o voter coalitions might overcome this racial backlash).

⁸¹ See Valdes, *Beyond Sexual Orientation*, *supra* note 73, at 1435-38; see also Ira Boudway, *The Rich Get Richer . . . and You Know the Rest*, BUS. WK., Sept. 30, 2010, at 33, available at http://www.businessweek.com/magazine/content/10_41/b4198033845016.htm (reporting that the gap between rich and poor in the United States is the widest on record).

⁸² Valdes, *Beyond Sexual Orientation*, *supra* note 73, at 1438.

⁸³ See BENDER, *supra* note 80, at 88-89 (detailing the dismantling of welfare programs under even the Clinton administration, with particularly damning impact on immigrant Latina/o communities).

zenly deny public monies for public education, infrastructure, and services.⁸⁴ This second prong of the culture wars, therefore, worked to reinforce the others.

Finally, the third prong of the culture wars has focused on re-packing the judiciary with backlash appointees and thereby disabling its capacity for vindicating constitutional rights inconvenient to corporate, neocolonial interests.⁸⁵ Beginning once again with Richard Nixon's 1968 electoral strategy, backlashing politicians increasingly have employed code terms like "law-and-order judges" to emphasize the kinds of appointees required by culture war agendas; emphasizing the link between the first prong and this one, Richard Nixon in 1968 explicitly promised his target voters the installation of a "southern" appointee to the Supreme Court.⁸⁶ The use of the judicial appointments to leverage electoral power, therefore, has two sides: backlash appointees serve both to reverse or limit inconvenient laws and precedents, as well as to shield new backlashing laws from meaningful judicial scrutiny.⁸⁷ Even though the Constitution is designed to prevent majoritarian overreaching and invidious lawmaking, backlash appointees at every level of the judiciary have re-interpreted statutes, precedents, doctrines, and the text itself to make sure that law licenses just that.

Of course, the culture wars find "different" out-groups in the United States positioned "differently" vis-à-vis core constitutional commitments like formal equality and key structural issues like democracy and judicial review, and thus vis-à-vis their formal and actual retrenchment through backlash. These differentials mean that the specific aspects or techniques of cultural warfare have been tailored for and directed at "different" groups in group-specific ways—ways that account for each group's standing in relationship both to formal law and to social reality.⁸⁸ As the still-ongoing California marriage equality controversy illustrates, the tactic with sexual minorities often is refusing to recognize even formal equality,⁸⁹ whereas the tactic with racial/ethnic minorities and women is typically to neutralize for-

⁸⁴ Valdes, *Beyond Sexual Orientation*, *supra* note 73, at 1439-40.

⁸⁵ *Id.* at 1440.

⁸⁶ See generally BENDER, *supra* note 80, at 54-55 (connecting Nixon's southern strategy with his "law and order" campaign, and pointing out the racial dimensions of each); see also GEOFFREY R. STONE ET AL., *CONSTITUTIONAL LAW* lxx (6th ed. 2009) (on Nixon's campaign promise to put a Southerner on the Supreme Court and his fulfillment of that promise).

⁸⁷ Valdes, *Beyond Sexual Orientation*, *supra* note 73, at 1441-43.

⁸⁸ See, e.g., Nicholas Espiritu, (*E*)*Racing Youth: The Racialized Construction of California's Proposition 21 and the Development of Alternate Contestations*, 52 CLEV. ST. L. REV. 189 (2005) (focusing on cultural warfare against youth of color in California through use of a proposition system in that state); Ruben J. Garcia, Comment, *Critical Race Theory and Proposition 187: The Racial Politics of Immigration Law*, 17 CHICANO-LATINO L. REV. 118, 122 (1995) (deconstructing racialized political dynamics of California's Proposition 187); see also *supra* note 62 and sources cited therein (on backlash and retrenchment).

⁸⁹ See, e.g., David B. Cruz, *Equality's Centrality: Proposition 8 and the California Constitution*, 19 S. CAL. REV. L. & SOC. JUST. 45 (2010).

mal equality by denying substantive or functional equality through procedural tricks, doctrinal manipulations, or sometimes, simple fiat.⁹⁰

Experience thus far indicates that the overarching pattern of backlash politics (and jurisprudence) constitutes the pursuit of a self-subscribed “anti-antidiscrimination” agenda in which judicial power and majoritarian power combine to roll back “liberal” laws of the past century that provided fragile life-lines to vulnerable out-groups.⁹¹ Experience specifically teaches that law and identity are central, integral, and pervasive to the contemporary politics of this cultural warfare. Consequently, it is absolutely no coincidence that legal observers of many different stripes have long been detailing and critiquing patterns of willful judicial and related political misbehavior in furtherance of “culture war” agendas against minority civil rights—misconduct that recycles in contemporary times the contradiction and corruption of self-dealing elites defining the rule of colonial and imperial law.⁹²

But this experience is not the whole story. The recent and highly public resurgence of white racial/ethnic consciousness, coupled with the increase in domestic right-wing terrorism against the civil rights of ‘suspected’ immigrants, women’s doctors, and unionized workers, makes plain that the culture wars of the new century will not be delimited by the still-fresh outrages targeting people of color, sexual minorities, and impoverished communities during the past one.⁹³ As demonstrated by the brazen disdain and belligerent

⁹⁰ Consequently, numerous scholars have critiqued judicial willfulness or other institutional misbehaviors specifically in the context of race/ethnicity or sex/gender. See, e.g., Charles R. Lawrence III, *Two Views of the River: A Critique of the Liberal Defense of Affirmative Action*, 101 COLUM. L. REV. 928 (2001); Susan Sturm & Lani Guinier, *The Future of Affirmative Action: Reclaiming the Innovative Ideal*, 84 CAL. L. REV. 953 (1996); see also Marina Angel, *The Glass Ceiling for Women in Legal Education: Contract Positions and the Death of Tenure*, 50 J. LEGAL EDUC. 1 (2000); Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537 (1988); Richard Delgado & Derrick Bell, *Minority Law Professors’ Lives: The BellDelgado Survey*, 24 HARV. C.R.-C.L. L. REV. 349 (1989).

⁹¹ See Jed Rubenfeld, *The Anti-Antidiscrimination Agenda*, 111 YALE L.J. 1141 (2002) (evaluating current judges’ manipulation or disregard of precedent and canons of interpretation in pursuit of their anti-antidiscrimination political agenda).

⁹² See e.g., Keith Aoki, *The Scholarship of Reconstruction and the Politics of Backlash*, 81 IOWA L. REV. 1467 (1996); Alan David Freeman, *Legitimizing Racial Discrimination Through Antidiscrimination Law: A Critical Review of Supreme Court Doctrine*, 62 MINN. L. REV. 1049 (1977-1978); William B. Gould, IV, *The Supreme Court and Employment Discrimination Law in 1989: Judicial Retreat and Congressional Response*, 64 TUL. L. REV. 1485 (1990); Charles R. Lawrence, III, “Justice” or “Just Us”: *Racism and the Role of Ideology*, 35 STAN. L. REV. 831 (1983) (book review); Nancy Levit, *The Caseload Conundrum, Constitutional Restraint and the Manipulation of Jurisdiction*, 64 NOTRE DAME L. REV. 321 (1989); Robert P. Smith, Jr., *Explaining Judicial Lawgivers*, 11 FLA. ST. U. L. REV. 153 (1983-1984); Stephanie M. Wildman, *The Legitimation of Sex Discrimination: A Critical Response to Supreme Court Jurisprudence*, 63 OR. L. REV. 265 (1984); C. Keith Wingate, *A Special Pleading Rule for Civil Rights Complaints: A Step Forward or a Step Back?*, 49 MO. L. REV. 677 (1984).

⁹³ For in-depth accounts of this social violence, see STEPHEN SINGULAR, *TALKED TO DEATH: THE LIFE AND MURDER OF ALAN BERG* (1989) (detailing the murder of Alan Berg by white supremacists); STEPHEN SINGULAR, *THE WICHITA DIVIDE: THE MURDER OF DR. GEORGE TILLER AND THE BATTLE OVER ABORTION* (2011) (detailing the murder of Dr. Tiller to shut-down women’s reproductive choices). Recent news reports are chock-full of such or similar accounts. See, e.g., Liz Robbins, Abby Goodnough & Ariana Green, *Officer Defends Arrest of*

disrespect shown to President Obama during the past two years, this widespread pattern of majoritarian aggression against minorities of all kinds suggests, at the very least, that no non-white person in the United States can rest safely and securely today. This very result, we think, is the intended singular point of the current public spectacles highlighted in this abbreviated account.

However, still below the public radar is the next coming front in the culture wars—a front that brings the conflict and its politics of backlash and destruction to our literal doorsteps. From where we stand, it seems clear that the university is next. Indeed, the university—like workers and immigrants—is already under assault, the key difference being the relative level of public (un)awareness. As intellectual workers who labor in the university, it is perilous to remain oblivious to this pattern of cultural warfare.

The culture campaigns targeting universities, like the culture wars more generally, have been picking up steam over the past decade or two, though they have remained relatively unpublicized. However, LatCrit and other OutCrit scholars may recall the campaign mounted by backlash politicians against antidiscrimination values and policies in the nation's law schools: that campaign, which extended over a decade, concluded only this year with the repeal of the facially discriminatory policy excluding or erasing the service of sexual minorities in the U.S. armed forces.⁹⁴ For more than a decade, this campaign embroiled the nation's legal academy in invidi-

Harvard Professor, N.Y. TIMES, July 24, 2009, available at <http://www.nytimes.com/2009/07/24/us/24cambridge.html?scp=1&sq=officer%20Defends%20Arrest%20of%20Harvard%20Professor&st=cse>; Gail Collins, Op-Ed., *Parsing Mr. Wilson's Apology*, N. Y. TIMES, Sept. 12, 2009, at A21, available at <http://www.nytimes.com/2009/09/12/opinion/12collins.html>; Alex Koppelman, *Palin Needlessly Fans 'Birther' Flames*, CHI. SUN-TIMES, Dec. 5, 2009, at 17; Nicholas Riccardi & Ashley Powers, *Arizona Strategy: Make Life Tough*, L.A. TIMES, Apr. 15, 2010, at 1, available at <http://articles.latimes.com/2010/apr/14/nation/la-na-arizona-immigration15-2010apr15>; Nicholas Riccardi, *Racial Profiling a Reality Now? An Arizona Sheriff's Illegal-Immigration 'Sweeps' Already Target Latinos*, Critics Say, L.A. TIMES, May 1, 2010, at 1; Jonathan J. Cooper, *Arizona Ethnic Studies Law Signed by Governor Brewer, Condemned by UN Human Rights Experts*, HUFFINGTON POST (May 11, 2010), http://www.huffingtonpost.com/2010/05/12/arizona-ethnic-studies-la_n_572864.html; Sheryl Gay Stolberg, *Persistent Issue of Race Is in the Spotlight Again*, N. Y. TIMES, July 23, 2010, at A13, available at <http://www.nytimes.com/2010/07/23/us/politics/23sherrod.html>; Brian Stelter, *When Race Is the Issue, Misleading Coverage Sets Off an Uproar*, N. Y. TIMES, July 26, 2010, at B1, available at <http://query.nytimes.com/gst/fullpage.html?res=9A0DEEDF1638F935A15754C0A9669D8B63>; Clyde Haberman, *In Islamic Center Fight, Lessons in Prepositions and Fear-Mongering*, N.Y. TIMES, July 27, 2010, at A13, available at <http://www.nytimes.com/2010/07/27/nyregion/27nyc.html>; Michael Barbaro, *Lazio Finds an Issue in Furor over Islamic Center*, N.Y. TIMES, Aug. 23, 2010, at A1, available at <http://www.nytimes.com/2010/08/23/nyregion/23lazio.html>; Michiko Kakutani, *The Engine of Right-Wing Rage, Fueled by More Than Just Anger*, N.Y. TIMES, Sept. 14, 2010, at C1 (reviewing WILL BUNCH, *THE BACKLASH: RIGHT-WING RADICALS, HIGH-DEF HUCKSTERS, AND PARANOID POLITICS IN THE AGE OF OBAMA* (2010)), available at <http://www.nytimes.com/2010/09/14/books/14book.html>; Frank Rich, Op-Ed., *The Tea Party Wags the Dog*, Jan. 30, 2011, N.Y. TIMES, at WK8, available at <http://www.nytimes.com/2011/01/30/opinion/30rich.html>; see also *infra* notes 157-60 and accompanying text (discussing similar incidents and reports).

⁹⁴ See generally Carl Hulse, *Senate Repeals Ban Against Openly Gay Military Personnel*, N.Y. TIMES, Dec. 18, 2010, available at <http://www.nytimes.com/2010/12/19/us/politics/19cong.html>.

ous discrimination that it could only partially “ameliorate” through a series of oppositional counter-measures; over the past decade, law schools were coerced by federal law to practice de jure facial discrimination against some of their (tuition-paying) students regarding employment opportunities on the basis of identitarian ideologies pushed by backlashing politicians through cultural warfare.⁹⁵ However, the assault on the university as a social institution has been broader than the campaign imposing homophobia on legal education.

During this same decade, several developments have begun to converge that undermine the university as a social institution and that neatly coincide with, and reinforce, the dynamics and objectives of social justice retrenchment and corporate neocolonialism through cultural warfare. To begin with, most academics already are aware of the steady corporatization of the university, a process by which a university and its mission become increasingly dictated by corporate interests who donate “Big Money” and expect to have a correspondingly big influence.⁹⁶ This corporatization process is neither ad hoc nor localized; it is a conscious strategy pushed by backlash politicians to capture and subdue independent or non-conforming sectors of society—a strategy also deployed against other social institutions deemed “liberal” bastions (like unions) and even the government itself.

This coordinated assault has been seen in backlash incidents on campuses from coast to coast in recent years, incidents that express the same kinds of racist, nativist, and similar neocolonial politics that drive the culture wars. A series of very recent incidents from the University of California system, leading up to a series of on-campus counter-protests, exemplifies this national situation. In 2010, students at the University of California at San Diego were invited to a “Compton Cookout” designed to mock Black History Month.⁹⁷ Two weeks later, following this “party,” a noose was then found hanging just outside the main library entrance. This pair of incidents followed on the heels of another similar string of incidents, all expressing and unleashing the reactionary racism and neocolonial backlash of the culture wars specifically on the nation’s college campuses.⁹⁸ Despite apologist delusions to the contrary, none of these were “isolated” instances; instead, each represents a datum helping to spawn and form a larger national pattern.⁹⁹

This ongoing process of institutional subversion and academic capture through corporate and identitarian politicking is being further facilitated now by additional developments. For example, the generation of academics com-

⁹⁵ See Valdes, *Beyond Sexual Orientation*, *supra* note 73, at 1439.

⁹⁶ See Steven Mintz, Arline Savage & Richard Carter, *Commercialism and Universities: An Ethical Analysis*, 8:1 J. ACAD. ETHICS 1 (2010).

⁹⁷ See Riya Bhattacharjee, *UC Berkeley Students Protest UCSD Racist Acts*, BERKELEY DAILY PLANET, Mar. 1, 2010, available at <http://www.berkeleydailyplanet.com/issue/2010-02-25/article/34750?headline=UC-Berkeley-Students-Protest-UCSD-Racist-Acts>.

⁹⁸ *Id.*

⁹⁹ See, e.g., *supra* note 93 and *infra* notes 158-60 and sources cited therein (listing similar incidents).

ing of age in the 1960s-70s is now on the verge of retirement,¹⁰⁰ and leveraging corporate control of university governance as much as possible, backlash networks stand ready to claim those slots as their own, hoping to ensure that the next generation of Americans will have no memory of recent history and instead will be content exercising their constitutional right to pursue happiness merely as consumers, debtors, and laborers in the service of white-and-male-controlled corporate profits and ambitions.

At the very same time, and coinciding with the racial, ethnic, and gender diversification of the legal academy, the American Bar Association is busy with plans to abolish tenure and other security-of-employment bulwarks historically adopted at universities to protect the freedom,¹⁰¹ independence, and integrity of academic knowledge-production.¹⁰² This practice of degrading, abandoning, or shutting down traditional neighborhoods, areas, schools, and other institutions once they have been integrated racially and ethnically, of course, is a pattern of white supremacist resistance to social justice reforms established during the course of the long struggle with de jure apartheid undertaken last century in this nation-state.¹⁰³ However, the contemporary extension of that socio-political pattern to the very core of the university as a social institution is new, and this creeping extension of that same pattern represents the new frontier of the culture wars.

¹⁰⁰ See generally Patricia Cohen, *On Campus, the 60's Begin to Fade as Liberal Professors Retire*, N.Y. TIMES, July 3, 2008, at A1, available at <http://www.nytimes.com/2008/07/03/arts/03camp.html>.

¹⁰¹ Academic freedom is under assault on fronts separate from attacks on tenure and security of position. For instance, legislators have targeted law school clinics that dare to challenge unsafe corporate business practices, Gabriel Nelson, *Law Students' Role in Farm Pollution Suit Angers Md. Lawmakers, Sparks Nat'l Debate*, N.Y. TIMES, Apr. 8, 2010, available at <http://www.nytimes.com/gwire/2010/04/08/08greenwire-law-students-role-in-farm-pollution-suit-anger-96381.html>, while pundits take aim at individual academics, including specifically "liberal" law professors, DAVID HOROWITZ, *THE PROFESSORS: THE 101 MOST DANGEROUS ACADEMICS IN AMERICA* (2007), and the Republican Party additionally aims to punish and squelch the political expression of progressive academics, Professor's Emails, Open Records, First Amendment: Wisconsin Professor William Cronon, CONST. L. PROF. BLOG (Mar. 25, 2011), <http://lawprofessors.typepad.com/conlaw/2011/03/professors-emails-open-records-first-amendment-wisconsin-professor-william-cronon.html> (discussing Republican efforts, via a freedom of information law, to obtain email records of a Wisconsin history professor critical of a state law dismantling collective bargaining).

¹⁰² See generally James J. Fishman, *Tenure: Endangered or Evolutionary Species*, 38 AKRON L. REV. 771 (2005); Karen Sloan, *Proposed Tenure Shift Upsets Faculty*, N.Y. L.J., July 27, 2010, at 6; Karen Sloan, *Faculty Mobilize Against ABA Tenure Proposal*, NAT'L L. J., Mar. 7, 2011, at 4. For a timely overview of these issues, see Michael A. Olivas, 2011 AALS Presidential Lecture, *Academic Freedom and Academic Duty*, AALS NEWS, Mar. 2011, at 1, available at http://www.aals.org/services_newsletter_presMarch11.php.

¹⁰³ The 1956 "Southern Manifesto" issued by members of Congress after *Brown v. Board of Education* exemplifies the pattern. See 102 CONG. REC. H3948, 4004 (daily ed. Mar. 12, 1956). See generally MICHAEL KLARMAN, *FROM JIM CROW TO CIVIL RIGHTS: THE SUPREME COURT AND THE STRUGGLE FOR RACIAL EQUALITY* (2004); BENDER, *supra* note 80, at 176 (detailing the lament of César Chávez that Ronald Reagan, who fought for public education funding when the majority of California schoolchildren were white, gave way to another Republican governor, Pete Wilson, who slashed budgets once the schools were filled with children of farm workers, Latina/os, and other minorities).

As a result, these continuing and expanding culture wars are increasingly relevant to the work and prospects of LatCrit theory, community, and praxis. While the culture wars have always been directly relevant to our work because they have been singularly focused on law and lawmaking to undo the civil and human rights gains of the past century or so, this new extension of backlash directly targets the institutions from which we do our work. The coming battles of the continuing culture wars, therefore, will combine and threaten both our work (law) and the place from which we try to do it (the university law school). Thus, even as the forces of reaction continue their culture war campaigns against old and familiar “enemies” like immigrants, sexual minorities, women, people of color, and organized workers, they also have broadened their reach to target additional enemies, including the university itself. If we thought our antistatist academic activism already addressed this reactionary warfare, then these gathering clouds should prompt us to update our comprehension of the phenomenon and to redouble our efforts to resist it.¹⁰⁴

These latest developments in cultural warfare, like the previous ones, demonstrate the use of the nation-state’s power over law and lawmaking to coerce vulnerable social groups into conformity and assimilation, compliance and subservience. Focused on the politics of law and policy, and bent on recapturing tight control of public sovereignty and its power over law, neocolonial elites and their foot-soldiers continue to target any social actor who dares resist their dictates, including social actors ranging from varied minority communities to powerful national politicians and mainstream social institutions.¹⁰⁵

b. The Politics of Context: Reaction, Struggle, and Progress Within Legal Academia

Within the legal academy of the United States, this national (and increasingly trans-national¹⁰⁶) zeitgeist has focused on the suppression of “critical” legal studies and marginalization of all antistatist knowledge production. This suppression has been quite explicit and effective. Because most strands of critical outsider jurisprudence have some substantive and substantial relationship to the legacies of critical legal studies, this backlash has facilitated hostility to our ongoing work within “our” institutions as well as across the broader profession: not only do the mainstream institutions of formal legal education in the United States promote imperial modes of professorial agendas and practices, they also reflect a normative bias against

¹⁰⁴ See *infra* Part III.C.

¹⁰⁵ See *supra* Part I.A.3.a and sources cited therein (on the escalation of violent cultural warfare since 2010).

¹⁰⁶ See *infra* notes 163-65 and accompanying text (on the trans-nationalization of reactionary politics in tandem with the processes of free-market fundamentalism and corporate globalization).

“outsider” criticalities that might bring into question the complicit and complacent comforts of the status quo for most insiders.¹⁰⁷

It therefore bears emphasis that LatCrit’s theory—like outsider jurisprudence generally—emerges during these times of backlash and retrenchment, including the opposition to diversity values as well as hostility to critical studies and scholars within the legal academy.¹⁰⁸ It likewise bears emphasis that this academic backlash is part and parcel of the larger culture wars aimed at reversing New Deal and civil rights lawmaking legacies across the entire spectrum of social institutions. Within legal academia, these culture wars operate in predictable and targeted ways: to stifle criticality in general, and OutCritical approaches to legal knowledge-production in particular. Nonetheless, we take seriously, and endeavor to fulfill in all that we do, the social, ethical responsibilities of intellectuals: “the responsibility . . . to speak the truth and to expose lies.”¹⁰⁹ Thus, the existence and persistence of LatCrit and other OutCrit discourses since 1995 or before, represent continuing acts of resistance against the re-imposition of neocolonial impunity and oligarchic re-stratification across North American society through or by law.

However, more than oppositional resistance, we have also registered affirmative progress. During this same time of furious backlashing within academia and throughout society, our work has not only continued, or merely survived, but has also prospered. During this time, various diverse OutCrits have collectively set the stage for enduring jurisprudential work beyond our present efforts despite the furious campaign to suppress our knowledges and blind our realities. Illustrating this remarkable fact are several key structural developments unfolding, at the same time, in the ongoing development of critical outsider jurisprudence, including developments at LatCrit.

One important structural development is that the people of color conferences have organized nationally three times now, once every five years, establishing during the past fifteen years a record of regularity that bodes well for the future. More generally, critical outsider jurisprudence has been newly organized and revitalized in programmatic terms beyond the projects that we initiate and sustain within LatCrit, including pipeline programs similar to those that we initiated over the past fifteen years, which are now more prevalent across the entire outsider jurisprudential landscape. Moreover, the increased ranks of critical outsider scholars have led to the establishment of centers, institutes, and similar entities at various law schools or institutions around the country, each with its own “portfolio” of initiatives similar to, and synergistic with, the national portfolio of LatCrit projects. Finally,

¹⁰⁷ See Montoya & Valdes, *supra* note 12, at 210-12.

¹⁰⁸ See, e.g., Richard M. Fischl, *The Question that Killed Critical Legal Studies*, 17 L. & SOC. INQUIRY 779 (1992) (discussing the backlash campaign against the Crits, and why/how it succeeded); Margaret E. Montoya, *A Brief History of Chicana/o School Segregation: One Rationale for Affirmative Action*, 12 BERKELEY LA RAZA L.J. 159 (2001).

¹⁰⁹ Noam Chomsky, *The Responsibility of Intellectuals*, N.Y. REV. BOOKS, Feb. 23, 1967, at 2, available at <http://www.chomsky.info/articles/19670223.htm>.

faculty of color—including many Latina/os—have moved into key positions within mainstream institutions of North American legal culture, even though this development may be more symbolic than substantive or structural. Examples of each development abound, which is our basic point.

One example is set by the various national conferences held during the past two years dedicated to outsider legal studies, which increasingly have begun to feature LatCrit-like projects and related practices, including the recent Third National Conference of the Regional People of Color Scholarship Conferences, held at Seton Hall School of Law in Newark just one month prior to the LatCrit XV Conference in Denver.¹¹⁰ Likewise, the Critical Race Theory Conference held at the University of Iowa College of Law in March 2009 featured formats, activities, and related practices that LatCrit scholars and projects have helped to initiate or develop as OutCrit praxis during the past fifteen years.¹¹¹ The Annual Critical Race Studies Conferences at UCLA also have opted for democratic approaches to OutCrit knowledge production, including “big-tent” programming and related practices.¹¹² Similarly, in recent years the regional Annual People of Color Scholarship Conferences have begun to regularly include pipelining programs like our annual Faculty Development Workshop and Student Scholar Program.¹¹³ Many of these and similar conferences, including those held most recently by the Society of American Law Teachers, also have begun to adopt and adapt our practice of regularly securing publication venues or opportunities to help promote the works and efforts of junior scholars, much as we have done with our academic events since 1995.¹¹⁴ Sometimes, and without any complaint from us, these conferences have literally adopted our basic operational documents as templates for conference materials and planning-related operations. Moreover, during these fifteen years the ranks of faculty of color at all levels, and of centers or other institutions controlled by them, have also grown considerably, both in depth and scope.¹¹⁵ Addi-

¹¹⁰ See *Our Country, Our World in a “Post-Racial” Era: Sept. 9-12, 2010 at Seton Hall Law School*, SETON HALL L., http://law.shu.edu/About/News_Events/thirdnationalpoc/index.cfm (last visited May 5, 2011). For background information regarding other similar national conferences, see *ClassCrits IV, “Criminalizing Economic Inequality,”* CLASSCRITS (May 3, 2011), <https://classcrits.wordpress.com/2011/04/01/classcrits-workshop-call-for-papers-criminalizing-economic-inequality/>; *Critical Ethnic Studies Conference, QUEER GEEK THEORY* (Mar. 11, 2011 10:38 AM), <http://www.queergeektheory.org/2011/03/cesa-2011-liveblog-white-supremacy-and-settler-colonialism-plenary/>.

¹¹¹ See *CRT 20: Honoring Our Past, Charting Our Future*, STRUM C. L., <http://law.du.edu/index.php/crt-20> (last visited Apr. 22, 2011).

¹¹² See *CRS Program*, CRITICAL RACE STUD. @ UCLA SCH. L., <http://crsonline.wordpress.com/> (last updated Mar. 15, 2011).

¹¹³ See 2011 JOINT SOUTHEAST/SOUTHWEST & MID-W. PEOPLE COLOR LEGAL SCHOLARSHIP CONF., <http://seswpocc.org/> (last visited Apr. 22, 2011).

¹¹⁴ See *Vulnerable Populations and Transformative Law Teaching—On Sale Now*, SALT (Feb. 21, 2011), http://www.saltlaw.org/contents/view/022111_saltbook.

¹¹⁵ For instance, several LatCrit Board Members direct law school-based centers. *E.g.*, *Contact*, CTR. GLOBAL JUST.: SEATTLE U. SCH. L., <http://www.law.seattleu.edu/x1866.xml> (last visited Apr. 23, 2011) (Professor Tayyab Mahmud Director of the Center for Global Justice); *Colin Crawford*, TUL. U. L. SCH., <http://www.law.tulane.edu/tlsceneters/payson/index>.

tionally, in recent years, in part through programs and events that we have helped to pioneer, many sub-networks and cross-networks of outsider scholars have also begun to coalesce organically to produce an increasingly diversified “zone” of knowledge-producing safety for an impressive range of OutCritical work.¹¹⁶

In short, many recent initiatives in outsider projects and conferences have elected to experiment with the basic model of “outsider democracy” for the legal knowledge-production that we have helped to emphasize and encourage over these years. All of these developments add up to a new landscape for the cultivation of outsider scholarship and praxis that is rich in infrastructure and thick in ranks. None of this, we emphasize, is to suggest that LatCrit scholars invented these practices from scratch or caused these developments entirely; on the contrary, we always, openly and consciously, have striven to learn from jurisprudential experience and to share our insights but, in tandem with many other individual and group initiatives and efforts, LatCrit academic activism has centrally contributed to these salutary developments.¹¹⁷ Thus, from a LatCritical perspective, the resulting challenge is to identify and target specific areas where we can add value to the sum of these collective efforts, to help fill jurisprudential gaps, or help meet new community needs, in sustainable and innovative terms.

In our view, this rich and welcome experimentation with LatCrit-like praxis indicates that our early mission largely has succeeded in helping to develop the contents and methods of “critical outsider democracy” and knowledge-production: while we have not changed the academy as a whole, we have helped influence the legal academy of color both substantively and methodologically in precisely the ways our original mission prioritized. Nevertheless, this success also brings into question whether we should continue doing the same, innovate anew, or do a bit of both. Under these significantly changed circumstances, the big-picture question is whether our focus and energy should shift toward “new” frontiers or gaps in substance and/or method; in the meantime we focus on continuing and updating the original commitments to programmatic innovation in sustainable and ethical terms.

In sum, the past fifteen years of outsider work from within the legal academy of the United States have witnessed both progress and pushback. The broader zeitgeist under which we live makes our work within our “home” institutions especially difficult, leading to the kinds of “hand-to-hand combat” that impedes social justice progress and helps to perpetuate neocolonial stratification of society under the unjust rule of law across this

aspx (last visited Apr. 23, 2011) (Professor Colin Crawford is Executive Director of the Payson Center for International Development).

¹¹⁶ The Faculty Development Workshop conducted jointly with the SALT each year has been a key conduit for this type of organic growth. See *LatCrit/SALT Junior Faculty Development Workshop (FDW)*, LATCRIT, INC., www.latcrit.org (follow “Projects” hyperlink; then follow “Academic Community” hyperlink; then follow “Junior Faculty Development Workshop”) (last visited Apr. 23, 2011).

¹¹⁷ See *supra* Part I.A.1 (on the guideposts and related conceptual anchors of LatCrit theory).

land and, increasingly, across the planet. However, we have persisted nonetheless: from within the legal academy of this nation-state, LatCrit and allied OutCrit scholars have built, incrementally and fitfully, an operational infrastructure of and for decolonizing knowledge production and social action, a jurisprudential platform that in fact is more vital and sturdy today than when we made our original commitments and charted our early plans fifteen years ago. Now, with these hard times and still contested cross-currents fully in mind, we turn to our sense of the present as a prelude to the better future that we not only dare to imagine but insist on pursuing.

II. LATCRIT TODAY: CURRENT INITIATIVES IN THEORY, COMMUNITY, AND PRAXIS

Given the thick record of LatCritical initiative and experimentation sketched above, it should come as no surprise that this diverse and lively community of activist scholars is as busy today as ever and perhaps working with a greater sense of urgency than ever before. Given our abiding commitments to the functions, guideposts, and postulates that we incrementally and collectively have identified during the past fifteen years, it should come as no surprise that our prospective work aims to build both on the earlier breakthroughs of our predecessors as well as on our own accumulating record of gains, shortfalls, and insights. Our ongoing efforts to call into being a postsubordination society through “outsider democracy,” “personal collective praxis,” “academic activism,” and related concepts and practices, will reflect and project the same kinds of concerns, priorities, and ambitions as our work has since 1995.

This sense of substantive and methodological continuity *and* progression is manifest in the programs and projects of this past year alone—the events and activities that together constituted in operational terms the year-round “zone” of safety for the incubation of OutCrit work during the 2010-11 academic year. These are the events that constitute our personal collective praxis in multidimensional terms. In many ways, these are the works that express in dynamic terms the realities of LatCritical academic activism, which mere words of description and analysis, such as those here in this Afterword, can never fully convey.

During this academic year alone, the LatCrit community conducted the International and Comparative Law Colloquium (ICC) in Paris and the South-North Exchange on Theory, Culture, and Law (SNX) in Mexico City—in addition, of course, to conducting LatCrit XV and the joint LatCrit-SALT Junior Faculty Development Workshop in Denver.¹¹⁸ We also conducted the Student Scholar Program (SSP) for the eighth year in a row, cultivating new relationships with emergent scholars of the next generation to

¹¹⁸ See LATCRIT, INC., www.latcrit.org (follow “Projects” hyperlink) (last visited May 5, 2011).

expand the boundaries of this work.¹¹⁹ We also continued with the publication of *CLAVE* as our flagship journal, but at the same time have likewise continued our vital work with social justice-minded law reviews to sustain the important work of publishing the papers of these latest programs and gatherings, as the three symposia based on LatCrit XV help to illustrate.¹²⁰ Concurrently, we undertook a complete overhauling of our increasingly rich and complex website, spearheading several new web-based projects like the Syllabi Bank, the Teaching Resources Bibliography, and the cross-referenced Thematic and Keyword Scholarship Indices (with the related Research Toolkit) designed to make the body of scholarship published in the thirty-some LatCrit symposia of the past fifteen years more accessible.¹²¹ Additionally, LatCrit scholars helped to found, and continue to help produce, *Nuestras Voces Latinas*, the nation's first legal-centric blog to focus squarely on social justice issues especially germane to Latina/o communities in the United States.¹²² Finally, but not least, we embarked on a new round of self-study and strategic planning to ensure the vitality and integrity of our current priorities and prospects.¹²³ Moreover, most of these activities and events are already under way for the upcoming academic year. This record of community industry and initiative during the past academic year and its steady continuation from year to year may seem to some sufficient for carrying forward in significant ways the programmatic work we have taken on collectively since 1995—but it is not to us.

Our continuing commitment to continuity does not—and cannot—translate into complacency or, worse, stagnation—even in appearance. It cannot mean that we simply “stay the course” and routinize our work into a rote repetition of past breakthroughs or ongoing achievements. There are no easy roads toward decolonization, either of self or society. Consequently, our commitment to continuity and advanced planning, coupled with our commitment to ongoing self-critical reviews and corrections of our ongoing work, jointly help to ensure that our labors remain anchored to shared fundamentals—the principles and practices rooted in the functions, guideposts, and postulates summarized above—even as we endeavor to improve, refine, and solidify the antistatutory sum of our jurisprudential initiatives. Our ongoing commitment to continuity and sustainability, when coupled with our commitment to innovation and flexibility, requires a dynamic yet principled balance in all that we do, or do not do, with our scarce resources. This

¹¹⁹ See *2010 LatCrit Student Scholars*, LATCRIT, INC. (2010), http://web2.uconn.edu/latcrit/studentprograms/ssp/2010_ssp/lcXV_ssp_bios.pdf.

¹²⁰ See *supra* note 3 and sources cited therein (on the three LatCrit XV-based symposia).

¹²¹ See LATCRIT, INC., www.latcrit.org (last visited May 5, 2011).

¹²² See *NUESTRAS VOCES LATINAS*, www.nuestrasvoceslatinas.com (last visited May 5, 2011).

¹²³ See *infra* notes 124-25 and accompanying text (on the LatCrit self-study and strategic planning processes).

principled sort of dynamic balance in turn places a premium on self-criticality.

It therefore should come as no surprise that the LatCrit community embarked several years ago on formal self-study and strategic planning processes that still remain ongoing.¹²⁴ These ongoing processes, like our prior periodic efforts at collective self-criticality, intentionally reflect and apply the commitments embodied in the functions, guideposts, and postulates that have guided us since 1995, but these efforts also aim for more. In addition to assessing “where we are” at this historical moment, LatCrit scholars also intend, through these multifaceted, multi-year self-study and strategic planning processes, to identify the paths that our work should next follow, not only in light of those functions, guideposts, and postulates, but also in light of changed contexts or changing circumstances—both internal and external.¹²⁵ Through these twin processes, we aim specifically to identify the new or pending projects and programs that LatCrit members should prioritize collectively today for the sake of OutCrit theory, community, and praxis tomorrow. Therefore, below we discuss some of the current initiatives in the LatCrit hopper designed to carry this work further, which also help to illustrate our current programmatic efforts and plans to bridge the past, present, and future of OutCrit legal studies in periodically reinvigorating ways.

A. *Knowledge Production Innovations: The LatCrit Scholarship Research Toolkit*

In 2010, LatCrit made available on its website a vital and much anticipated innovation toward the production of OutCrit scholarship. Detailed below, the LatCrit Thematic and Keyword Indices offer LatCrit scholars an important research tool connecting their work to the rich history of scholarship found in the thirty-some published LatCrit symposia.¹²⁶

Early in LatCrit’s history as a scholarly movement, LatCrit scholars recognized the importance of engaging and building on the existing body of LatCrit theory and discourse.¹²⁷ LatCrit leadership acknowledged this imperative by compiling a Primer of foundational LatCrit scholarship distrib-

¹²⁴ For further recent descriptions of these efforts, see Marc-Tizoc González, Yanira Reyes-Gil, Belkys Torres & Charles R. Venator-Santiago, *Afterword: Change and Continuity: An Introduction to the LatCrit Taskforce Recommendations*, 8 SEATTLE J. SOC. JUST. 303 (2009-2010); Marc-Tizoc González, Yanira Reyes, Belkys Torres, Charles R. Venator-Santiago, *Afterword: The LatCrit Task Force Recommendations: Findings and Recommendations of a Self-Study of the LatCrit Board, 2009*, 18 AM. U. J. GENDER, SOC. POL’Y & L. 853 (2010). See generally LATCRIT STEERING COMMITTEE REPORT (Oct. 5, 2010) (on file with authors).

¹²⁵ See *supra* Part I.A.3.b (on recent or ongoing structural and political changes in the academy).

¹²⁶ For a listing of LatCrit symposia see *Annual LatCrit Symposia (ALS)*, LATCRIT, INC., <http://web2.uconn.edu/latcrit/publishedsymposium.php> (last visited Mar. 13, 2011).

¹²⁷ See, e.g., Margaret E. Montoya, *Foreword: LatCrit V Symposium, Class in LatCrit: Theory and Praxis in a World of Economic Inequality*, 78 DENV. U. L. REV. 467, 470 (2001);

uted annually to conference participants, initially in hardcopy, then on disk, and eventually through the LatCrit website that now houses all three volumes of the LatCrit Primer.¹²⁸ Our expectation was that conference participants in their various roles as speakers, writers, and discussants, particularly those from other disciplines, would better engage in the conference themes when familiar with our history of key scholarly publications.

Running counter to the hegemonic prerogatives of traditional law school casebooks that abbreviate lengthy scholarly works into manageable but often neutered sound-bites, the Primer supplied uncut versions of key LatCrit scholarship with the expectation that these works would be read as the authors intended. As the LatCrit body of published symposia grew through the years, however, the limits of the Primer model became evident. Capturing the burgeoning body of LatCrit work, and introducing scholars both new and old to LatCrit's "cohesive yet sprawling enterprise,"¹²⁹ now required more user-friendly and targeted tools.

Responding to these needs, over the last few years LatCrit leadership has worked to develop the Scholarship Research Toolkit now found on the website.¹³⁰ Consisting of both a Thematic Index and a Keyword Index, along with links to the rich body of published symposia, the toolkit offers the LatCrit community the opportunity to search, discover, and create a window to the past and present of LatCrit scholarship uniquely tailored to their needs and interests. As explained on the website,¹³¹ the Thematic Index allows scholars to search the LatCrit scholarly record as organized into twenty-five themes. Already searchable by theme, author, or date of publication, the Thematic Index includes an Excel version that researchers can manipulate to perform even more customized searches.¹³² Complementing the Thematic Index, the Keyword Index allows for more particularized inquiries into the LatCrit corpus arranged under 250 keywords. Having identified relevant articles using both indices, the researcher can conveniently access those works using the LatCrit website links to published and downloadable symposia,¹³³ thus creating, in essence, a customized Primer for his/her research interests.

While these exciting tools for LatCrit researchers respond to the imperative that LatCrit scholars immerse themselves in the history of published work in shaping their own additive contributions, the growth of the LatCrit project reveals the need for additional materials for interested scholars and,

Pedro A. Malavet, *Afterword: Outsider Citizenships and Multidimensional Borders: The Power and Danger of Not Belonging*, 52 CLEV. ST. L. REV. 321, 335 (2005).

¹²⁸ 1 LATCRIT PRIMER (2002), <http://web2.uconn.edu/latcrit/publications/primer/lcprimeri.pdf>.

¹²⁹ *Composition Guidelines for LatCrit Forewords, Afterwords and Cluster Introductions*, LATCRIT, INC., http://web2.uconn.edu/latcrit/publications/publishedsymposium/foreword_afterwordguidelines2006.pdf (last visited Mar. 13, 2011).

¹³⁰ *General Instructions for Use of the LatCrit Scholarship Research Toolkit*, LATCRIT, INC., <http://web2.uconn.edu/latcrit/researchtoolkit.php> (last visited Mar. 13, 2011).

¹³¹ *Specific Instructions for Use of the LatCrit Thematic Index*, LATCRIT, INC., http://web2.uconn.edu/latcrit/theme_index.php (last visited Mar. 13, 2011).

¹³² See *id.*

¹³³ *Annual LatCrit Symposia (ALS)*, *supra* note 126.

particularly, other audiences who can benefit from LatCrit's now fifteen year labor of love and struggle. The Scholarship Research Toolkit assumes some degree of familiarity with the themes and concepts contained in the LatCrit corpus. Newcomers to LatCrit, such as scholars and students from various disciplines, no doubt would appreciate a tool more akin to the Primer that supplies pre-selected works of introduction to the LatCrit movement and its values. Appreciating, and even celebrating, the "sprawling" body of work while understanding the need to deliver it to these users in a "cohesive" manner, the proposed Social Justice Reader Series, detailed *infra* in Part III.B.2, aims to serve this purpose for future generations of LatCrit scholars, students, and activists to come.

B. Critical Pipelines: Their Past, Present, and Future

From its inception, the LatCrit community has recognized the need to include and develop students as future lawyers, activists, and educators of the next generation of critical thinkers.¹³⁴ Whether rooted in law or other disciplines, both the presence and the engagement of students with LatCrit values, functions, and guideposts, has benefitted all participants, heralding a sustained future for OutCrit theory. Well documented by LatCrit scholars is the marginalization and invisibility of OutCrit theory in law schools.¹³⁵ LatCrit theory offers exposure to the experience in law and society of the largest minority group in the United States, while simultaneously engaging the struggles of other marginalized groups in the vital interest of exploring the interconnections among these oppressions and the potential for coalition(s). Thus, law students and students in other disciplines can benefit from exposure to LatCrit theory where the invisible becomes visible.¹³⁶ Yet, at the same time, the LatCrit community also depends on these students as the vehicle for our most meaningful expression of praxis—their involvement as educated lawyers and activists implementing LatCrit theory toward the so-

¹³⁴ Francisco Valdes, *Insisting on Critical Theory in Legal Education: Making Do While Making Waves*, 12 BERKELEY LA RAZA L.J. 137, 153 (2001) [hereinafter Valdes, *Critical Theory in Legal Education*] ("LatCrit's basic purpose since 1995 has been not only to inaugurate and cultivate an absent and overdue discourse, not only to produce critical sociolegal knowledge on Latinas/os qua Latinas/os, but also to ensure that this knowledge is promptly made accessible to you [law students]—the future of our profession—so that this work would aid your self-empowerment as agents of social and legal transformation.").

¹³⁵ Francisco Valdes, *Barely at the Margins: Race and Ethnicity in Legal Education—A Curricular Study with LatCritical Commentary*, 13 BERKELEY LA RAZA L.J. 119 (2002) [hereinafter Valdes, *Race in Legal Education*] (detailing the exclusion of Latina/o issues in the law school curriculum and revealing findings that fewer than 5 in 100 law students received any formal exposure on issues of race, ethnicity, and Latina/os and the law); Valdes, *Critical Theory in Legal Education*, *supra* note 134, at 150 ("Despite a multitude of jazzy-sounding platitudes and slick brochures about gearing up for the Twenty-First Century, when it comes to this basic issue of [critical outsider] curricular coverage, law schools around the country have struck the pose of an ostrich.").

¹³⁶ See Valdes, *Race in Legal Education*, *supra* note 135, at 120 (acknowledging that the near absence of Latina/os from law school curriculum parallels the circumstances of invisibility in U.S. law and society from which LatCrit theory emerged).

cial justice aims we can now only imagine. LatCrit scholars and students, therefore, are as synergistic a combination as LatCrit theory and praxis.

In order to properly train the next generation of students, LatCrit aspires to nurture and cultivate junior scholars, some of whom will be drawn from the ranks of current students as they have been for the last fifteen years.¹³⁷ This critical pipeline includes a road that links students to the next generation of critical scholars. More generally, the critical pipeline of future educators, lawyers, and activists bridges the fundamental missions of LatCrit to develop theories of antisubordination and put them into practice. With these crucial aims in mind, it is appropriate at this quinceañera moment to review, appreciate, critique, and even dream about the engagement between LatCrit and the many students and emergent scholars in this critical pipeline.

1. *Building the Critical Pipeline: Lessons from the Past and Reflections on the Present*

LatCrit has always cared about the inclusion of student voices and the development *con cariño*¹³⁸ of young scholars. Beginning with the first annual conference, partnerships with student law review editors and staff produced a rich body of LatCrit scholarship. For example, over a dozen Boalt law students attended LatCrit VII in Oregon as part of the joint publication of the conference discourse in the Berkeley La Raza and Oregon law reviews.¹³⁹ In addition, one of the Boalt students spoke on a concurrent panel, and another published an article in the conference symposium.¹⁴⁰

Two of the more ambitious projects targeting students, one of them surviving and thriving to the present, are the Critical Global Classroom (CGC) and the Student Scholar Program (SSP). Offered in South America in 2003 and 2004, the CGC summer study-abroad program aimed to empower law students to turn jurisprudence into social transformation. Class sessions taught by LatCrit scholars, supplemented by field trips, guest lectures, and an optional social justice project, drew on five familiar themes of LatCrit theory and examination: (1) Colonialisms and their Consequences, (2) Minority Groups and Inter-Group Relations, (3) Economics and Stratification, (4) Constitutionalism and the Rule of Law, and (5) Globalization and Alter-

¹³⁷ See *supra* note 9 for discussion of participants in the LatCrit Student Scholar Program now teaching in the legal academy. Additionally, Professor Ruben Garcia (Cal Western) attended his first LatCrit conference as editor of the UCLA Chicano-Latino Law Review that published symposium articles from LatCrit II and later, LatCrit X.

¹³⁸ "With love" in Spanish.

¹³⁹ Symposium—*Coalitional Theory and Praxis: Social Movements and LatCrit Community*, 81 OR. L. REV. 587 (2002); 13:2 BERKELEY LA RAZA L.J. (2002).

¹⁴⁰ See Donna Maeda, *Agencies of Filipina Migrants in Globalized Economies: Transforming International Human Rights Legal Discourse*, 13 BERKELEY LA RAZA L.J. 317 (2002). That symposium also included the article of a J.S.D. student from Columbia Law School, John Hayakawa Török, *The Story of "Towards Asian American Jurisprudence" and Its Implications for Latinas/os in American Law Schools*, 13 BERKELEY LA RAZA L.J. 271 (2002).

natives.¹⁴¹ As conceptualized in the afterword to the LatCrit V symposium that recognizes disturbing lapses in traditional legal education:

The pedagogical purpose of this project, therefore, has been to expose students to theoretical frameworks, discourses[,] and information they ordinarily are not taught in the normal course of legal education as currently structured: to give them the insights and vocabulary, the tools and techniques, the contacts and networks they need to pierce through the mazes of doctrine and policy that supposedly constitute the “rule of law” in this country, and to do so as agents of social justice transformation. Thus, the idea of employing a summer study-abroad program as the venue or vehicle for the Critical Global Classroom proceeds from the recognition that most law schools minimize or marginalize curricular opportunities to study, and be exposed to, critical theory or outsider jurisprudence. It is this formal, entrenched curricular structure that we seek to circumvent—and we do so necessarily from the institutional margins we occupy. . . . Thus, while law schools continue their curricular neglect of critical theory and outsider jurisprudence, LatCrit and allied scholars can create a lifeline to interested students from coast to coast with just one, well-designed summer program. . . . This project circumvents not only the curricular gaps of formal legal education[,] but also the intellectual and social isolation inflicted on outgroup or progressive students and faculty in the typical law school setting; students not only have an opportunity to study topics omitted from their formal courses of study but also have the opportunity to do so among a multiply diverse group of peers and a similarly diverse group of faculty, all of whom take their interests and concerns seriously.¹⁴²

Initiated in 2002, the SSP selects students in law and other disciplines for scholarships to attend LatCrit academic and educational programs. During their two-year engagement, SSP participants are invited to submit publications for LatCrit symposia and are mentored by LatCrit scholars. Among its goals:

The SSP is designed to cultivate antisubordination knowledge that spans disciplines, cultures[,] and eras to promote critical awareness of human injustices[] and of their constructed origins and nature. The SSP, like other forms of critical approaches to legal

¹⁴¹ LATCRIT PUBLICATIONS, PROJECTS AND PLANS 2004-05 (on file with authors).

¹⁴² Elizabeth M. Iglesias & Francisco Valdes, *LatCrit at Five: Institutionalizing a Post-subordination Future*, 78 DENV. U. L. REV. 1249, 1316-17 (2001) (citations omitted). Suspended in 2005 in order to redesign the program for financial and other logistical reasons, the CGC project still awaits its reintroduction.

education, seeks to build memory, embrace identity, and foster agency among traditionally subordinated groups and students.¹⁴³

Through the vehicle of the SSP identifying students committed to social justice scholarship and praxis, LatCrit has incubated several of today's emerging teachers and scholars.¹⁴⁴

Other LatCrit scholarly/praxis projects aimed at students have included the Cyber Classroom Project and the Community Development Externship.¹⁴⁵ As with the CGC, some of these projects fell short of our expectations for longevity. Given the reality of LatCrit as a mostly self-funded community of overextended volunteers, often themselves facing hostility and countervailing pressures from their home institutions, it might be seen as miraculous that some of these planes were able to take flight at all, even briefly. The lesson from the LatCrit experience with its critical pipeline projects aimed at students is that a single organization cannot swiftly overcome the lapses of academic institutions toward students yearning for training in OutCrit jurisprudence and opportunities of social justice praxis. As with our own individual aspirations, we cannot accomplish all our collective transformative goals, at least not without a lifetime of commitment and effort. Nevertheless, the success of the SSP is one that we can undoubtedly recognize and celebrate at this quinceañera stage in the still-young life of LatCrit.

We can also celebrate the eighth consecutive year of the Junior Faculty Development Workshop (FDW), our annual pipeline program co-sponsored with SALT (Society of American Law Teachers). Aiming to build yearlong and even lifelong alliances, the annual FDW mentors progressive junior faculty on their scholarship, teaching, and service to help them attract and properly train similarly-minded students in the academy. Through these and other successes, LatCrit continues with the dream intact to realize and celebrate a post-subordination future.

¹⁴³ Francisco Valdes, *Outsider Jurisprudence, Critical Pedagogy and Social Justice Activism: Marking the Stirrings of Critical Legal Education*, 10 *ASIAN L.J.* 65, 93 (2003).

¹⁴⁴ See Rachel Anderson, Marc-Tizoc González & Stephen Lee, *Toward a New Student Insurgency: A Critical Epistolary*, 94 *CAL. L. REV.* 1879 (2006) (including scholarly correspondence from co-author Marc-Tizoc González describing his experience as a Student Scholar; co-author Stephen Lee was also a Student Scholar). In addition to González and Lee, see *supra* note 9 for a listing of alumni from the SSP now in the legal academy.

¹⁴⁵ For information on these projects, see LATCRIT, INC. www.latcrit.org (follow "Projects" hyperlink; then follow "Past Projects" hyperlink) (describing the Cyber Classroom Project as a means of connecting students to faculty in discussion of LatCrit texts and the Externship as an experiential learning project providing social justice assistance to rural and urban communities). Additional LatCrit projects aimed at students include the "Introduction to LatCrit Workshop" at the annual National Latina/o Law Student Conference and the CLAVE online journal published by LatCrit and law students at the InterAmerican University of Puerto Rico School of Law. See *infra* note 171 and accompanying text (on CLAVE).

2. *LatCritical Pipelining: Coming of Age and The Social Justice Reader Series*

LatCrit junior scholars entering the academy, particularly, have the ability to introduce new curriculum, at least in their seminar courses, that examines OutCrit jurisprudence. LatCrit scholars have long lamented the absence of texts suited for these purposes.¹⁴⁶ Although the LatCrit Primer originally was well suited for introducing students and other newcomers to LatCrit to the values, functions, and guideposts of the LatCrit movement, the broadening and deepening of the LatCrit scholarly record requires a new approach.

We are pursuing publication and preparation of a multi-volume teaching tool, named the Social Justice Reader Series, suitable for a multitude of applications in the critical classroom. Drawn from the extensive LatCrit scholarly record, each volume will include key LatCrit works that map current issues in law, policy, and theory, blended with new contributions that situate these key texts in larger frameworks of critical scholarship and discourse in contemporary law and society. The six volumes encompass the major conceptual categories that animate LatCrit scholarship of (1) Jurisprudence (Critical Outsider Jurisprudence and Coalitional Theory and Method), (2) Identity (Race, Ethnicity, Sex, Sexuality, and Special Needs), (3) Class (Economics, Trade/Commerce, and Environmental Justice), (4) International/Comparative (International Law, Human Rights, and Globalization), (5) Culture (Arts, Language, Religion, Family, and Law and Society), and (6) Nation/State (Democracy, Borders/Diasporas, Crime, Conquest/Colonialism, and Native Peoples).¹⁴⁷ Each volume will draw on the teaching experience and pedagogical innovation of LatCrit scholars to provoke vigorous

¹⁴⁶ Cf. Valdes, *Race in Legal Education*, *supra* note 135, at 143.

¹⁴⁷ The keystone volume, titled "Law and Social Justice: Critical Perspectives," introduces the most compelling and foundational issues relevant to the Series mission: race, gender, class, citizenship/immigration, criminal justice, colonialism, and rebellious lawyering for social justice. The six supplemental volumes will engage the following basic themes or topics:

- I. "*Jurisprudence*" (*Critical Outsider Jurisprudence, Coalitional Theory, and Method*)
Antisubordination, Antiessentialism, and Critical Outsider Jurisprudence: Theorizing Theory
Inter/Intra-group Relations: Ethical Praxis, Critical Coalitions, and Social Transformation
Education and Legal Knowledge: Pedagogy, Academic Activism, and Critical Legal Education
- II. "*Identity*" (*Race, Ethnicity, Sex, Sexuality, Special Needs*)
Races, Ethnicities, and Colors: Finding the Synergies
Sexes and Genders in Law and Society: Beyond Cultures of Patriarchy
Sexual Orientations: Queering Communities of Color
Comparative Racializations: Exploring Patterns and Particularities
- III. "*Class*" (*Economics, Trade/Commerce, Environmental Justice*)
Class and Identity: Class as Identity
Legal Systems: Commerce, Law, and Humanity
Labor and Employment: Making Work Fair
Environmental In/justice: Mapping the Landscapes
- IV. "*International/Comparative*" (*International Law, Human Rights, Globalization*)

classroom discussion. Recognizing the virtues of electronic publishing to augment traditional hard-copy volumes, we intend to offer these materials on an electronic database from which teachers may draw from multiple volumes to create custom course materials to anchor or augment their courses. In this manner, the Social Justice Reader Series can infuse a variety of traditional courses with critical, inter/counterdisciplinary, and globalized frameworks of discussion to enable the study of how law promotes or impedes social justice in the United States and beyond.

The Social Justice Reader Series can readily serve as an introduction to LatCrit theory that organizes and articulates the many themes of LatCrit for use in classrooms, as well as by interested scholars and activists. Therefore, the Series can serve the same function as the LatCrit Primer, just better organized to present the now larger body of LatCrit jurisprudence. In addition to serving the role of the LatCrit Primer, the Series provides a vehicle to restart or reinvigorate many LatCrit projects and aspirations, especially those that benefit students and faculty. For example, the Cyber Classroom, originally conceptualized for those students and faculty discussing the Primer and related texts, might now function best as a means of connecting students and faculty who have adopted the Series in their classrooms. In this manner, students and faculty can better connect the text to current events, supplemental readings, and social justice praxis. Similarly, the course-ready materials in the Reader Series would bolster the LatCrit Seminar Series, envisioned as a transportable mini-course—based on student or administrative demand—by which LatCrit scholars might visit schools to teach the basics of critical outsider theory in a one-week period. With some modification, the Series might also supply the framework for the LatCrit K-12 Education Project, conceived as a means of adopting outsider texts for use in younger class-

International Law, Human Rights, and Critical Outsider Jurisprudence: Social Justice Perspectives

Globalization and Economic Integration: Neo/colonial Redux?

Critical Comparativism: Connecting the South-North Connection

Food, Healthcare, and Well-being: The Politics of Access to Well-being

V. *"Culture" (Arts, Language, Religion, Family, Law, and Society)*

Religions, Churches, and Identity Politics: The United States and Beyond

Languages, Cultures, and Families: Critical Case Studies

Popular Culture and Critical Outsider Jurisprudence: Music, Literature, and Cinema

Mass Communications and Mass Control: Antisubordination Notes

VI. *"Nation/State" (Democracy, Borders/Diasporas, Crime, Conquest/Colonialism, Native Peoples)*

Indigenous Peoples and Critical Outsider Jurisprudence: Toward Mutual Engagements

Conquests, Migrations, Diasporas, and Immigration: Im/migrations in Context

Democracy, Governance, and Self-determination: Law and Nation-states

Security, Terror, and Borders: The Legal Construction of Persons, Citizens, and Justice

Land Policy and Social Justice: History, Theory, Reality

Crime and Punishment: Lessons from the Bottom

This organizational grouping is another way of capturing the vivid intellectual contributions of LatCrit. See also Valdes, *Rebellious Knowledge Production*, *supra* note 23, at 141-45 (organizing the LatCrit substantive contributions into five categories of (1) Latina/o Identities and Diversities, (2) Intra- and Inter-Group Frameworks, (3) Internationalism and Critical Comparativism, (4) Counter-Disciplinarity, and (5) Class and Identity).

rooms. In sum, by augmenting the physical space of a LatCrit mini-“campus” or retreat center,¹⁴⁸ the Reader Series can serve as an unlimited virtual space for these important discussions among concerned students and faculty, operating *sin fronteras*¹⁴⁹ and *sin papeles*.¹⁵⁰

Unfortunately, our enthusiasm over the Reader Series must be tempered by the realities and histories of legal education. Law schools may resist texts that deviate from the traditional casebook model of legal education.¹⁵¹ More fundamentally, the availability of the Social Justice Reader Series will not alter the incentives for law schools to resist critical legal education both in faculty hires and the adoption of OutCrit curriculum.¹⁵² To overcome these structural obstacles, LatCrit can dream of someday establishing a critical global law school infused with LatCrit values in hiring, admission, and curriculum and positioned to attract similarly minded students who aspire toward the praxis of rebellious lawyering.¹⁵³ As Esperanza Cordero, heroine and narrator of the coming-of-age novel, *The House on Mango Street*, aspired to have a house all her own “clean as paper before the poem,”¹⁵⁴ on the momentous occasion of its quinceañera, LatCrit can hope for its own institutional home to “apprehend and create the intellectual, personal, and structural conditions necessary for enduring antisubordination transformation in and beyond the United States.”¹⁵⁵

¹⁴⁸ See *infra* Part III.C (on “bricks and mortar”).

¹⁴⁹ “Without borders” in Spanish.

¹⁵⁰ “Without papers” in Spanish. Still, the advent of the culture wars and attacks on Ethnic Studies curriculum, most active in Arizona as evidenced by its passage of H.B. 2281 (applicable to public schools), suggests imbedded resistance to the discussion of LatCrit principles, particularly in the K-12 model. For example, the mere advocacy of interracial coalition could be seen under the Arizona legislation as impermissibly urging ethnic solidarity rather than treatment as individuals. Might attacks on the foundation of subordination policies by government be seen as impermissibly advocating an overthrow of the U.S. government and its debilitating practices?

¹⁵¹ See Valdes, *Race in Legal Education*, *supra* note 135, at 136 (describing the Langdellian case method of legal education).

¹⁵² Valdes, *Critical Theory in Legal Education*, *supra* note 134, at 149 (explaining why law schools might resist integration of critical theory into legal education: because “providing us the critical tools to transcend—and disturb—conventional wisdom might not be in the interest of privileged groups who, on both individual and collective levels, benefit from the skewed allocation of benefits and burdens under existing sociolegal conventions, even as some disclaim—without disgorging—the inherited perks of structural privilege”). Cf. Richard Delgado, *Transcendence: Conservative Money and Generational Succession*, in *VULNERABLE POPULATIONS AND TRANSFORMATIVE LAW TEACHING: A CRITICAL READER* 21 (Soc’y of Am. L. Teachers & Golden Gate Univ. Sch. of L., eds. 2011) (positing the psychology of transcendence as explaining the resistance of the wealthy to fund public education and support other redistributive policies). Although law students in hostile schools could always embrace the Reader Series *sua sponte*, as LatCrit will heartily encourage and facilitate through cyber discussions, such uncredited adoptions in large numbers are not likely.

¹⁵³ See *infra* Part III.C. See generally LOPEZ, *supra* note 23.

¹⁵⁴ SANDRA CISNEROS, *THE HOUSE ON MANGO STREET* 108 (1984).

¹⁵⁵ Montoya & Valdes, *supra* note 12, at 249.

III. LOOKING AHEAD: LATCRIT BEYOND FIFTEEN

The future we imagine from where we stand today can be summarized with six forward-looking bottom lines. Three are focused on the substance of our work and the other three on our approach to method—though each, as noted already, overlaps and interacts with the other. Both substantively and methodologically, these six bottom lines reflect and project the record we have built together since 1995, as well as the main trains of thought percolating now through the formal LatCrit self-study and strategic planning processes that remain still unconcluded.¹⁵⁶ However, these bottom lines represent only our view—much like our account of the past and the present, our sense of this imagined future represents only our perspective. Although just a sketch, we hope these concluding thoughts help to enable the LatCrit community and all allied scholars to continue with vigor and vitality the cutting-edge kinds of jurisprudential work that has characterized the past fifteen years of LatCritical antiracism academic activism at both the collective and individual levels of principled endeavor.

A. *The Substance of Our Work: Forward-Looking Bottom Lines*

Our first substantive forward-looking bottom line is a sense of urgency regarding the new racism unleashed in the form of “post-racial” rhetorics that have erupted from coast to coast in this country with the election of a black man to the Presidency.¹⁵⁷ The promotion of a putatively post-racial moment while old-fashioned racism explodes all around serves only to mask the deeply entrenched and willfully resilient hold that white supremacy and privilege retain in this country legally, culturally, and economically.¹⁵⁸ The suggestion of a post-racial America, while reactionary politicians literally incite vigilantes to hunt down brown people in the name of the law and white folk everywhere mount campaigns of disrespect and subversion against the nation’s first and only non-white President, is an invidious hoax that perpetuates the sorry legacies of white-imposed slavery, segregation,

¹⁵⁶ See *supra* notes 124-25 and accompanying text (on these processes).

¹⁵⁷ For a good overview of the topic, see EDUARDO BONILLA-SILVA, *RACISM WITHOUT RACISTS: COLOR-BLIND RACISM AND THE PERSISTENCE OF RACIAL INEQUALITY IN THE UNITED STATES* (2006); see also Orlando Patterson, *Race and Diversity in the Age of Obama*, N.Y. TIMES, Aug. 16, 2009, at BR23, available at <http://www.nytimes.com/2009/08/16/books/review/Patterson-t.html> (reviewing racial/ethnic relations in social, economic, and political terms to contextualize Obama’s election within persistent ethno-racial inequality).

¹⁵⁸ For one literal example, see Bryan Curtis, *The Killer on the Border*, NEWSWEEK, Feb. 20, 2011, at 10 (reporting how a “minuteman” vigilante “forced her way into the home of the Flores family” with accomplices and “gunned down” the family. The nine-year old daughter “was shot in the head.”); see also Jonathan Alter, *American Assassins*, NEWSWEEK, Jan. 16, 2011, at 18, available at <http://www.newsweek.com/2011/01/16/american-assassins.html> (recounting the generalized resort to political violence in this country, including recent events). For further details and discussion of these thoughts, see Sumi Cho & Francisco Valdes, *CRT @ 20: Retrospect & Prospect – Legal Colorblindness and Racialized Post-Racialism Within (& After?) the Nation-State*, 43 CONN. L. REV. (forthcoming 2011).

exploitation, and marginalization.¹⁵⁹ The suggestion of a post-racial America is absurd while white people from coast to coast publicly act out their conscious sense of whiteness and reassert their claim to its neocolonial privileges in political, social, economic, and legal terms.¹⁶⁰ This cynical promotion of post-racial rhetoric and politics to cover up social reality amounts to the new racism of the 21st Century. Invoking emphatically “the responsibility of intellectuals to speak the truth and to expose lies,”¹⁶¹ Lat-Crit and allied theorists are duty-bound to make the exposure of this hoax, and the timely amelioration of its damage, an urgent priority. Counteracting the new American racism therefore serves as our first substantive bottom line as we imagine the future of our work together.

Our second substantive forward-looking bottom line is a call for a renewed emphasis in all that we already have endeavored to get done on, with, and through South-North criticalities, including programmatic emphases on international cross-disciplinary events, projects, interventions, and coalitions. These efforts, as noted above, have helped to broaden the substance and scope of critical outsider jurisprudence more broadly, but they also have fallen short.¹⁶² In the meantime, the spread of corporate globalization, the rise of free-market fundamentalism, and the recent looting of the public treasury and national economy under the Bush regime of 2001-2008 have carried the hostilities of the so-called “culture wars” to new levels and across all borders.¹⁶³ Today, therefore, the nation-state itself is said to be on the verge of a corporate takeover; we are told that market state is our future.¹⁶⁴ As the forces of neocolonial resurgence and reactionary racism within the nation-state combine with the forces of neoliberal globalization and corporate ambition across the globe to domesticate the power of public sovereign-

¹⁵⁹ For some recent representative incidents, see *supra* note 93 and sources cited therein; see also Ronald Turner, *Plessy 2.0*, 13:4 LEWIS & CLARK L. REV. 861 (2009) (providing a current overview and analysis of the racial status quo in legal, social, and political terms); Bob Hebert, Op-Ed., *Blacks in Retreat*, N.Y. TIMES, Jan. 18, 2010, at A31, available at <http://www.nytimes.com/2010/01/19/opinion/19herbert.html> (critiquing the continuing structural nature of racialized poverty and subordination in the United States despite the annual official celebration of Martin Luther King, Jr.).

¹⁶⁰ See *supra* Part I.A.3 (on the politics of cultural warfare); see also CHARLES OGLETREE, *THE PRESUMPTION OF GUILT* (2010) (using the 2009 arrest of Harvard University Professor Henry Louis Gates in his home to analyze broader and deeper patterns of reactionary racial subjugation in the United States today).

¹⁶¹ See Chomsky, *supra* note 109, at 2.

¹⁶² See *supra* Part I.A.2 (on LatCrit efforts and limitations).

¹⁶³ For further details and discussion of these thoughts, see Cho & Valdes, *supra* note 158.

¹⁶⁴ With the widespread establishment of multinational corporations, nation-states have become increasingly irrelevant and may devolve to “market states” devoted to sustaining the conditions necessary for fundamentalist so-called “free”-market capitalism. For a widely-noted rendition of this line of thinking, see generally PHILIP BOBBITT, *THE SHIELD OF ACHILLES: WAR, PEACE, AND THE COURSE OF HISTORY* (2003); PHILIP BOBBITT, *TERROR AND CONSENT: THE WARS FOR THE TWENTY-FIRST CENTURY* (2009). This intensifying process of corporate globalization prefers profit over people; under this regime, the law, rather than operating as an instrument to protect the human rights of human beings, will continue to become the servant of corporate “human” rights that devour labor, disenfranchised citizens, disempowered communities, dispossessed families, and disemboweled social institutions.

ties,¹⁶⁵ LatCrit and allied scholars must stretch our work and reach even further and deeper than ever before. As the national and transnational processes of globalized stratification continue to do their work, we must do ours with increased emphasis, urgency, and efficacy.

Our third substantive forward-looking bottom line is a reaffirmation of the longstanding call to focus in a sustained manner on socio-economic class and the material stratification of society, looking to how they inter-connect with other axes of identity, including race, gender, sexuality, ability, citizenship, and other similar fault lines that we have aimed to help map and counteract since 1995. This call to focus on the material stratification of society in multidimensional terms represents an effort to establish patterns of synergy between class and other identitarian constructs: an effort to make plain that our work must address “class” as identity and that our object is to examine how class operates in tandem with other key aspects of individual and group social identities to construct both material and cultural skews in law and life.¹⁶⁶ In the shadow of corporate globalization, this longstanding commitment has become manifestly more acute, but equally important to this elevated sense of urgency is the national, coordinated legal, and political assault on American labor that is underway in the United States right now as the latest extension of the unabated culture wars.¹⁶⁷ Therefore, counteracting heightened cultural warfare against workers and other vulnerable social groups within and beyond this nation-state serves as our third and concluding substantive bottom line for future collaborative work.

Ideally, of course, the LatCrit community will conceive and create programmatic frameworks to ensure a proactive, sustained, and collective engagement of these substantive bottom lines. We have learned during the past fifteen years that the values, functions, guideposts, and postulates that anchor our work are best served with this kind of concerted, long-term commitment to follow-up action. To pursue these three general areas of pending substantive priorities in these LatCritical ways, we next turn to three forward-looking bottom lines focused on method.

B. The Method of Our Work: Forward-Looking Bottom Lines

Our first methodological forward-looking bottom line is a shift (or expansion) from national, large-scale, and regular or ongoing programmatic events (like the ALC) to smaller-scale and irregular, or shorter-term, interventions. As we noted above, LatCrit scholars’ approach to critical outsider democracy, as a framework for our collective work, included a decision to establish a portfolio of programmatic projects that would take the “safe space” concept to the next level and create a “safe zone” for the year-round

¹⁶⁵ See Cho & Valdes, *supra* note 158.

¹⁶⁶ See Hernández-Truyol et al., *supra* note 44, at 208-15 (on class in LatCrit theory).

¹⁶⁷ See Cho & Valdes, *supra* note 158.

incubation of theory, praxis, and community.¹⁶⁸ To supplement this rich new array of projects and programs, we think the next LatCrit programmatic move should be toward smaller-scale, more focused, and perhaps irregular or one-time kinds of events, activities, and interventions.

This thought is not entirely fresh, nor exclusively ours: the moves to expand from the ALC to the ICC, SNX, FDW, NGO Project, Study Space Series and similar smaller-scale, focused events reflect this sort of thinking.¹⁶⁹ However, now we further encourage LatCrit scholars to take the next step—for instance, moving to resume the smaller-scale retreats of earlier years, this time with a more focused emphasis on scholarship production, perhaps in the form of books; or similarly, to take up the perennial idea of small collaborative research projects organized around specific publications or other tangible end goals. The basic idea we underscore here is fundamental to the sustainability and relevance of our work: to nurture proactively a democratic, decentralized, organic move toward retreats, workshops, and like venues that will supplement in synergistic ways the expanded menu of large national events like those we surveyed above.¹⁷⁰

Our second methodological forward-looking bottom line encourages a broadened approach to our publication priorities, expanding our priorities from traditional law review symposia to an equal emphasis on books—both traditional and electronic—as well as other forms of electronic publication, including better use of our substantively ever-richer website. This call to an expanded approach should also include a self-critical reassessment of our current publication structure to enhance our existing work as much as possible, including renewed attention to CLAVE, our LatCritical law review launched in co-sponsorship with the Law Faculty of the InterAmerican University of Puerto Rico in 2000.¹⁷¹ This expanded approach could also pave a path for LatCrit scholars to revisit early projects—like the LatCrit Primer, the Monograph Series, or the E-Letter¹⁷²—and modify them to suit the current moment as well as our long-pending, long-stalled, though still-important efforts to translate much of our work into Spanish and other languages, particularly Portuguese.

This bottom line, we think, is well served by the Social Justice Reader Series, which we hope might serve as a model for future similar efforts¹⁷³: we hope, for instance, that a move toward smaller-scale projects, like writing retreats, might be organized around the publication of books—both traditional and not, hard-copy and electronic. We hope, in other words, that these

¹⁶⁸ See *supra* note 33 and accompanying text (on the “safe zone” concept).

¹⁶⁹ For more on these LatCrit projects, see LATCRIT, INC., www.latcrit.org (follow “Projects” hyperlink) (last visited May 5, 2011).

¹⁷⁰ See *supra* notes 110-16 and accompanying text (on the recently expanded range of outsider programs).

¹⁷¹ See generally CLAVE, <http://www.clave.org> (last visited May 5, 2011).

¹⁷² See LATCRIT, INC., www.latcrit.org (follow “Projects” hyperlink; then follow “Scholarly Publications” hyperlink) (last visited Apr. 23, 2011).

¹⁷³ See *supra* Part II.B.2 (on the Reader Series and related ideas).

concluding suggestions will work synergistically with each other and with the ongoing work that we already do. We likewise hope that this sort of event and purpose will develop democratically and organically and that varied small groups of LatCrit and OutCrit scholars increasingly will band together, generating over time a rich and diverse series of book publications and/or electronic projects devoted to the articulation of critical outsider jurisprudence in ever-more powerful and accessible terms. The aim here is simply to take the longstanding LatCrit commitment to the production of knowledge to the next level, while focusing still on social relevance and open access.

Our third methodological forward-looking bottom line is a renewed emphasis on, and programmatic expansion of, our various pipeline initiatives aiming to ensure the well-being of critical outsider democracy within the legal academy and, if possible, beyond it. As described earlier, pipelining has been a constant feature of LatCrit theory, praxis, and community, evidenced by programmatic initiatives like the SSP and the more recent LatCrit Fellowship Program, as well as the varied, present-day efforts summarized above.¹⁷⁴ Indeed, at the LatCrit XV conference in Denver this year, we celebrated the success of eight alumni of the SSP program (out of twenty-four total SSP alumni) who have entered the legal academy (or are in the process of doing so)—a record of accomplishment that we celebrate communally with relish.¹⁷⁵ Now, the question before us is whether this level of performance is our best, or even enough, under the ever-more challenging circumstances of this conflictive historical moment.

C. Concluding Call: From Substance and Method to Bricks and Mortar

Finally, we close with a concluding call, also mentioned above, urging LatCrit and allied scholars to revisit earlier plans and initiatives: a call to bricks and mortar. We live in a world full of examples showing that enclaves, compounds, retreat centers, and similar physical facilities play a crucial role in the nourishment of outsider perspectivities and normativities. We work in a profession organized materially around campuses and conferences, both of which require bricks and mortar.

Recognizing these basic facts, for years now LatCrit members informally have discussed, and even explored concretely, ways of establishing a physical, bricks-and-mortar base—a center, a safe spot, perhaps the beginning of a campus-style project suited to our particular needs. Building on those efforts, we think the substantive and methodological bottom lines sketched above in turn call for a serious collective and formal look at the possibilities in light of current circumstance: to take our collective work to the next level, to meet the pending and new challenges of this moment efficiently, and to best effectuate the substantive and methodological

¹⁷⁴ See *supra* Part II (on LatCrit pipeline efforts).

¹⁷⁵ See *supra* notes 9 and 137 and accompanying text (on the SSP alumni).

work outlined above. We think that LatCrit and allied scholars finally need some bricks and mortar of our own. This sort of project can become the glue for and cutting edge of the future we imagine, especially in light of the unabated culture wars and their increasing targeting of the institutions from which we do this work.¹⁷⁶

Given the increased threats to the independence of academia and academics and the continuing corporate capture of the university as a social institution, the LatCrit campus project could not be more timely: more than ever before, we need a location, a place, a gathering center—a campus and home—of our own. To ensure that the work of the past fifteen years endures and expands in creative and sharp ways, we must, as always, establish the collective, institutional, operational infrastructure for long-term work to incubate, consolidate, and emerge. For old and new reasons, we now must prioritize the establishment of a collective “crib” or “ejido” for the maturation of the project birthed fifteen years ago in the form of LatCrit theory, praxis, and community. After all, doesn’t every fifteen year-old need one?

While the details and complications of this qualitatively different project (for us) will require sustained attention to navigate, this concluding suggestion, in our view, could bring substance and method together in our collective work like never before. Over the course of these past fifteen years, the LatCrit community has engineered a democratic infrastructure for internal self-governance capable of making sensible and principled choices;¹⁷⁷ we have seen it happen, time and again. This concluding bottom line, if realized during the next several years, will provide a solid and literal base for the intergenerational continuation of the work we gathered this year in Denver to celebrate at LatCrit’s quinceañera.¹⁷⁸ We hope and trust the LatCrit community will exercise its imagination decisively yet again and take its collective enterprise to this next level of operation with due deliberation and utmost alacrity.

CONCLUSION

Originally, fifteen years ago, we began with the aim of centering diverse Latina/o communities in U.S. legal culture and scholarship and developing both the methods (“outsider democracy”) and substance (“antisubordination/multidimensionality”) of critical outsider jurisprudence, while promoting counter-disciplinary and transnational approaches to Out-Critical legal studies. We focused on this original mission because, at that time, we understood these needs to be the most urgent or relevant to the ongoing development of critical outsider jurisprudence and praxis in cutting-edge ways. This original emphasis on serving community needs and push-

¹⁷⁶ See *supra* Part I.A.3 (on cultural warfare, other trends, and universities).

¹⁷⁷ See Part I.A. (on LatCrit approaches to method and democratic knowledge-producing process).

¹⁷⁸ See *supra* note 8 and accompanying text (on the LatCrit quinceañera).

ing the envelope of critical outsider jurisprudence in substantive and methodological terms continues to define the LatCrit sense of mission today, as reflected in our ongoing work.

To achieve this ongoing sense of jurisprudential mission, we adopted a variety of projects, beginning with an annual conference in the United States focused on law, but quickly expanded to a Portfolio of Projects reflecting our broader substantive commitments to counter-disciplinarity and transnationalism. Since then, we have continued to imagine and develop this Portfolio of Projects, including the International and Comparative Law Colloquium, Junior Faculty Development Workshop, South-North Exchange on Theory Culture and Law, Study Space Series and other projects that reflect both our origins in the U.S. legal academy as well as our broader commitments and efforts regarding especially the “Global South” and interdisciplinary knowledge-production. Throughout this time and across all these programmatic efforts, we also have emphasized personal and collective praxis and publications in the framework of a self-critical outsider democracy: our long-standing commitment to programmatic innovation and sustainability was manifested originally in our development of principles and practices designed to ensure critical integrity along with mid-to-long-term continuity, both in intellectual and institutional terms. Today, these basic substantive and methodological commitments clearly continue to move LatCrit theory, praxis, and community, but now likely require (once again) organic (re)adaptation to evolving circumstances, both internally and externally.

These changes range from the (inter)national zeitgeist to the structural reconfiguration of academia itself. Even as we continue successfully to cultivate the content and craft of OutCrit legal studies in collective and programmatic terms, the furies of backlash and retrenchment continue to gain force all around us. For these new and/or old reasons, we conclude with calls focusing critical attention on both the substance and method of our future work. We call for renewed and redoubled efforts regarding our original commitments—south-north internationalism, class-and-identity, counter-disciplinarity, critical pipelining, and significantly, bricks-and-mortar. None of these ideas, again, are entirely new within the LatCrit discourse, nor even strictly original in broader OutCrit terms. However, each and every one is more urgently needed today than ever before in OutCritical jurisprudential history. Having helped to raise this spunky fifteen year old, the pressing question now facing the LatCrit “village” boils down simply to this: What next? As with the past fifteen years, we look forward to this diverse, ever-fluid, far-flung LatCrit community of activist scholars for timely, programmatic, innovative, and principled antistatist action.

